

# Notices of Intent

## NOTICE OF INTENT

Department of Civil Service  
Civil Service Commission

Civil Service Rule 6.16.3

The State Civil Service Commission will hold a public hearing on Wednesday, January 9, 2002, to consider the amendment of Civil Service Rule 6.16.3. The hearing will begin at 9 a.m. and will be held in the Department of State Civil Service Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, Louisiana.

Consideration will be given to the following:

### Amend Rule 6.16.3

This Rule establishes an incentive program designed to encourage increased efficiency and better performance in governmental operations. Subject to the provisions of Rule 6.29, and after obtaining a reward of monies from the incentive fund as established in the Louisiana Government Performance and Accountability Act, an appointing authority may implement an exceptional performance and gainsharing incentive reward program which provides for supplemental compensation to identify classified employees or classified employee groups responsible for efficiencies or exceptional performance. Where the agency is not covered by the Louisiana Government Performance and Accountability Act, the appointing authority shall obtain certification of efficiencies or exceptional performance as required by the Director of the Department of Civil Service. Employees must have been employed by the agency, program, or activity during the period when the efficiencies or the exceptional performance occurred and at the time the reward is distributed. Monetary rewards shall not be part of the classified employee's base pay, but rather shall be a lump sum reward not to exceed 20 percent of his annual base salary. Such reward shall not be considered in the determination of retirement benefits. Each appointing authority's supplemental compensation plan must be approved by the Civil Service Commission prior to distribution of the monies. The plans shall be posted in a manner that assures their availability to all employees. Such public posting shall identify the reward recipients and the amount received by each recipient.

### Explanation

This amendment will ensure that the Rule more closely follows the parameters set in the Louisiana Government Performance and Accountability Act.

Allen Reynolds  
Civil Service Director

0112#033

## NOTICE OF INTENT

Department of Civil Service  
Civil Service Commission

Civil Service Rules 12.6, 11.10.1, and 11.8(a)

The State Civil Service Commission will hold a public hearing on Wednesday, January 9, 2002 to consider the following rule proposals. The hearing will begin at 9 a.m. and will be held in the Department of Civil Service Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, Louisiana.

The following will be considered at the meeting:

### Amend Rule 12.6

### Non-Disciplinary Removals

The provisions of this Rule shall be made generally available to all employees. An employee may be non-disciplinarily removed under the following circumstances. When an employee is removed under this Rule, the adverse consequences of Rules 6.5(c); 7.5(a)7; 8.9(d); 8.13(a)7; 8.15(d); 8.18(d) and (e); 11.18(b) and 17.25(e)4 shall not apply.

#### (a) Absence from Work

An employee may be removed under the following circumstances:

1. when, on the effective date of removal, the employee is unable to perform the essential functions of his job due to illness or medical disability and he has fewer than eight hours of sick leave to his credit and his job must be performed without further interruption. When an employee is non-disciplinarily removed under this provision, he shall be paid for all remaining sick leave; or

2. when an employee has more than nine unscheduled absences during any consecutive 26-week period. "Unscheduled absences," for the purpose of this rule, shall be defined by the appointing authority. One unscheduled absence may be any continuous period of absence, regardless of its duration. Approval of leave, after the fact, to cover an unscheduled absence shall not prevent the absence from being considered unscheduled;

#### (b) ...

(c) when the employee holds more than one position in the state service and the multiple employment causes an employing agency to be liable for overtime payments under the Fair Labor Standards Act and, after having been provided an opportunity to do so, the employee has refused to resign from one of the positions.

### Explanation

It is important to note that the proposed amendments in Subsection (a) allowing non-disciplinary removals for absence from work are do not have to be used by agencies. Its use is optional with appointing authorities.

Amended Subsection (a) gives agencies new grounds for non-disciplinary removals. The intent of these changes is to give agencies more practical means of dealing with absenteeism, which is a significant obstacle to good employee morale and productivity in state government. This proposal will remove from agencies the difficulty of proving sick leave abuse or taking disciplinary action for such absences. Rather, agencies could remove employees based solely on degree of absenteeism, including unscheduled absences (subject to the Americans with Disabilities Act and the Family and Medical Leave Act). Through these more practical means of controlling absenteeism, supervisors will be empowered to improve morale and productivity.

One unscheduled absence referred to in Subsection (a)2, may be of any continuous duration (e.g., one hour, four hours, one day, etc., at the discretion of the agency). An appointing authority should set a policy or policies concerning such absences. The appointing authority may have different policies for different groups of workers due to different work situations. For example, a policy defining unscheduled absences for shift-workers at 24-hour institutions may vary from another one established for that institution's daytime office workers. Unscheduled absences may also include those requested by employees to leave work early. For policy purposes, the agency may count either all such absences, no matter how short their duration, or count as "unscheduled" only those absences that last a minimum period of time, such as four hours or a complete workday.

In cases of removal under Subsection (a)1, the employee would be paid for all remaining sick leave. This provision for payment of sick leave upon separation is unique to this type of removal, because the employee is ill or disabled and is therefore entitled to be compensated for legitimate sick leave that he was unable to use due to his separation, which is not the case in other types of removals or resignations.

Proposed Subsections (b) and (c) retain current provisions for non-disciplinary removals, although proposed Subsection (c) has been moved from its placement in the current Subsection (a).

#### **Adopt Rule 11.10.1**

##### **11.10.1 Payment for Sick Leave When Employee Is Non-Disciplinarily Removed under Rule 12.6(a)1**

When an employee is removed in accordance with Rule 12.6(a)1, he shall be paid the value of his accrued sick leave in a lump sum, based on his regular hourly rate of pay, unless he is reemployed in probational or permanent status in the classified state service or is reemployed in the unclassified service, without a break in service of one or more working days, in which cases the sick leave will transfer to the employing agency.

#### **Explanation**

This Rule requires that when an employee is non-disciplinarily removed under the provisions of Rule 12.6(a)1, that he be paid for his remaining accrued sick leave, unless he is reappointed without a break in service of one or more working days, in which case his leave will transfer to the employing agency. This provision for payment of sick leave upon removal is unique to the type of removal stated in Rule 12.6(a)1 because the employee is ill or disabled and is therefore entitled to be compensated for legitimate sick that he was unable to use due to his removal, which is not the case in other types of removals or resignations.

#### **Amend Rule 11.18(a)**

##### **Cancellation or Continuance of Annual and Sick Leave**

(a) When an employee separates from the state classified service, all accrued annual leave except that which must be paid and all accrued sick leave except that which must be paid under Rule 11.10.1 shall be cancelled; however, if the employee is reemployed in probational or permanent status in the classified service or is reemployed in the unclassified service without a break in service of one or more working days, all of the employee's annual and sick leave shall be transferred to the employing agency.

(b) - (e) ...

#### **Explanation**

This amendment accommodates newly proposed Rule 11.10.1 requiring payment for all remaining sick leave for employees who are non-disciplinarily separated under Rule 12.6(a)1. This provision for payment of sick leave upon separation is unique to this type of removal because the employee is ill or disabled and is therefore entitled to be compensated for legitimate sick leave that he was unable to use due to his separation, which is not the case in other types of removals or resignations.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the Director of State Civil Service, Post Office Box 94111, Baton Rouge, LA 70804-9111.

If any accommodations are needed, please notify us prior to this meeting.

Allen H. Reynolds  
Director

0112#034

#### **NOTICE OF INTENT**

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

Bulletin 746C Louisiana Standards for State Certification  
of School PersonnelC Out-of-State Applicant  
Certification Policy (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The proposed policy includes language relative to Louisiana licensing of an individual who has been prepared as a teacher in another state and/or who is certified in another state. This policy reflects two changes from prior out of state licensure policy: (1) the term of the provisional certificate that allows time for the candidate to satisfy Louisiana PRAXIS examination requirements has been extended from one year to three years; and (2) under specified conditions, a teacher who is licensed in another state and has at least four years of successful experience can be exempted from Louisiana PRAXIS examination requirements. The changes in state policy stem directly from changes in law (HB 221).

**Title 28**  
**Education**

**Part I. Board of Elementary and Secondary Education**  
**Chapter 9. Bulletins, Regulations, and State Plans**  
**Subchapter A. Bulletins and Regulations**

**§903. Teacher Certification Standards and Regulations**  
Bulletin 746

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825-827 (June 2001), LR 27:827-828 (June 2001), LR 27:828-829 (June 2001), LR 28:

**Out-of-State Applicant**

Certification is authorized only for classroom teachers for levels or subjects available in Louisiana. These regulations shall not apply to administrative, supervisory, or special services requiring a minimum of a master's degree. A teacher who qualifies for a certificate under the out-of-state plan shall be issued either a Type C certificate or (if lacking any of the testing requirements) a three-year nonrenewable provisional certificate.

Individuals qualifying under this plan shall meet requirements 1 (A or B), either 2 or 3, and 4 under the following provisions:

I. The applicant must meet the requirements specified under A or B, below:

A. Approved Program Plan

1. The applicant must possess an earned baccalaureate degree from a regionally accredited institution.

2. The applicant shall have completed a teacher education program at an institution that is accredited at the time of graduation by both the state and regional accrediting agencies.

3. The applicant shall have been issued a regular certificate by the state where he completed the teacher education curriculum. If a certificate was not issued, a letter from the State Department of Education verifying eligibility for a certificate in the area(s) is acceptable.

- or -

B. Certificate Plan

1. The applicant must possess an earned baccalaureate degree from a regionally accredited institution.

2. The applicant shall have been issued a regular teaching certificate by another state. If a certificate was not issued, a letter from the State Department of Education verifying eligibility for a certificate in the area(s) is acceptable.

3. The applicant shall have completed student teaching or internship in the area(s) of certification or have three years of successful teaching experience in the area(s) of certification.

II. The PRAXIS/National Teacher Examinations are required, except as listed in paragraph 3 below. The applicant must present the appropriate scores on the NTE core battery or common exams or the corresponding PRAXIS tests: Pre-Professional Skills Tests (PPSTs) in Reading, Writing, and Mathematics; and the Principles of Learning and Teaching (PLT) K-6, 5-9, or 7-12; and the

specialty area exam in the area in which the teacher education program was completed or the area in which the initial certificate was issued. If there is no specialty area exam score indicated on the Louisiana list of PRAXIS/NTE area scores, only the core battery or common exams of PPSTs and PLT will be required. *The applicant lacking the PRAXIS/NTE may be issued a three-year nonrenewable provisional certificate upon request.*

III. The applicant who holds a valid out-of-state teaching certificate, has at least four years of successful teaching experience in another state as certified by the previous out-of-state school district(s) from satisfactory annual evaluation results, and has completed one year of employment as a teacher in the Louisiana public school system shall not be required to take required Louisiana PRAXIS/NTE examinations or to submit examination scores from any examination previously taken in another state as a prerequisite to the granting of certification in Louisiana, provided that:

A. the teacher meets all other requirements for a Louisiana certificate as may be required by law or board policy;

B. the local superintendent or his designee of the public school system employing the teacher has recommended the teacher for employment for the following school year, subject to the receipt of a valid Louisiana teaching certificate; and

C. the local superintendent or his designee has requested that the teacher be granted a valid Louisiana teaching certificate.

IV. The applicant who has earned a degree five or more years prior to the date of application must have taught as a regular teacher at least one semester within the five-year period immediately preceding the date of application or first employment in Louisiana. Lacking this experience, he shall be required to earn six semester hours in resident, correspondence, and/or extension credits related to his teaching field. These refresher credits must be earned during the five-year period immediately preceding the date of application.

The Louisiana certificate issued shall cover the elementary, secondary, or special education level, depending upon the level of preparation. For the secondary level of teaching, the Louisiana certificate shall cover only major and minor subjects of preparation.

For the required application form, the applicant should consult the Louisiana Department of Education website ([www.doe.state.la.us](http://www.doe.state.la.us)) or write to Certification and Higher Education, State Department of Education, P.O. Box 94064, Baton Rouge, LA 70804-9064.

\* \* \*

Interested persons may submit comments until 4:30 p.m., February 8, 2002, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

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

**RULE TITLE: Bulletin 746C Louisiana Standards for  
State Certification of School PersonnelC Out of State  
Applicant Certification Policy**

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

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

This policy requires that any person who is prepared as a teacher and/or is certified in another state can apply for a Louisiana certificate and be issued a three-year provisional license rather than a one-year license, as in the past. Furthermore, if the applicant has at least four years of successful experience, this policy allows exemption from Louisiana PRAXIS examination requirements, under specified conditions.

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

This policy will have no effect on competition and employment.

Marlyn J. Langley  
Deputy Superintendent  
Management and Finance  
0112#019

H. Gordon Monk  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC PRAXIS/NTE Scores (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The Practitioner Teacher Program provides a streamlined alternate certification option that allows individuals to become certified with a Type B certificate after three years of full-time teaching and combined coursework, if they demonstrate required content knowledge, instructional expertise, and classroom management skills. Practitioner teachers who complete the required course requirements (or equivalent contact hours) and demonstrate proficiency during their first year of teaching can obtain a Level B Professional License after successfully completing all requirements of the Practitioner Teacher Program (which includes successful completion of the Louisiana Assistance and Assessment Program and passing scores on the PRAXIS) and completing a total of three years of teaching. An exemption from the assessment portion of the Louisiana Teacher Assistance and Assessment Program is provided under specified conditions.

**Title 28  
EDUCATION**

**Part I. Board of Elementary and Secondary Education  
Chapter 9. Bulletins, Regulations, and State Plans  
Subchapter A. Bulletins and Regulations**

**§903. Teacher Certification Standards and Regulations**

**A. Bulletin 746**

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10), (11), (15), R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825-827 (June 2001), LR 27:827-828 (June 2001), LR 27:828-829 (June 2001), LR 28:

**Practitioner Teacher Program**

**A. Major Components of the Practitioner Teacher Program**

1. Universities, school districts, or private providers (e.g., Teach for America) will be able to offer a Practitioner Teacher Program.

2. Individuals will be considered for admission to a Practitioner Teacher Program if they possess a baccalaureate degree from a regionally-accredited university with a 2.5 or higher GPA\* and already possess the content knowledge to teach the subject area(s). To demonstrate knowledge of subject area(s), all individuals (with the exception of those who already possess a graduate degree) will be required to pass the Pre-Professional Skills Test (e.g., reading, writing, and mathematics) for the PRAXIS. Teachers of grades 1-6 (regular and special education) must pass the *Elementary Education Content Knowledge* specialty examination on the PRAXIS (#0014), and teachers of grades 4-8 (regular and special education) must pass the *Middle School Content Knowledge* specialty examination (#0146). Teachers of grades 7-12 (regular and special education) must pass the *specialty examination* on the PRAXIS in the content area(s) (e.g., English, Mathematics, Science, Social Studies, etc.) in which they intend to be certified. (\*Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider.)

3. If admitted to the Practitioner Teacher Program, individuals who intend to be certified to teach grades 1-6, 4-8, or 7-12 must successfully complete nine credit hours (or 135 contact hours) of instruction during the summer prior to the first year of teaching. Practitioner teachers will be exposed to teaching experiences in field-based schools while involved in course work.

4. All practitioner teachers will teach during the regular school year in the area(s) in which they are pursuing certification and participate in nine credit hours (or 135 contact hours) of seminars and supervised internship during the fall and spring to address their immediate needs. Practitioner teachers will be observed and provided feedback about their teaching from the program provider. In addition, practitioner teachers will be supported by school-based mentors from the Louisiana Assistance and Assessment Program and by principals.

5. Practitioner teachers who complete the required course requirements (or equivalent contact hours) with a 2.5 or higher GPA and demonstrate *proficiency* during their first year of teaching can obtain a Level B Professional License

after successfully completing all requirements for the Practitioner Teacher Program (which includes successful completion of the Louisiana Assistance and Assessment Program and passing scores on the PRAXIS) and after completing a total of three years of teaching.

6. Practitioner teachers who successfully complete the required courses (or equivalent contact hours) and demonstrate *weaknesses* during their first year of teaching will be required to complete from one to twelve additional credit hours/equivalent contact hours. A team composed of the program provider, school principal, mentor teacher, and practitioner teacher will determine the types of courses and hours to be completed. The number of hours, which will be based upon the extent of the practitioner teachers' needs, must be successfully completed within the next two years. The team will also determine when the practitioner teachers should be assessed for the Louisiana Assistance and Assessment Program during the next two year time period. Additionally, for teachers who successfully completed the Louisiana Assistance and Assessment Program prior to entering the Practitioner Teacher Program, the team will determine if the Louisiana Components of Effective Teaching are still being exhibited by the teacher at the "competent" level and, if so, allow by unanimous decision

the teacher to be exempted from completing the Assessment part of the Louisiana Assistance and Assessment Program. The practitioner teachers must successfully complete all requirements for the Practitioner Teacher Program (which includes successful completion of the Louisiana Assistance and Assessment Program and passing scores on the PRAXIS in the specialty areas) and must teach for a total of three years before receiving a Level B Professional License.

7. The State's new Teacher Preparation Accountability System will be used to evaluate the effectiveness of all Practitioner Teacher Programs.

**B. Structure for a Practitioner Teacher Program  
Program Providers**

Practitioner Teacher Programs may be developed and administered by universities;

- school districts; and
- other agencies (e.g., Teach for America, Troops for Teachers, Regional Service Centers, etc.).

The same State Teacher Preparation Accountability System will be utilized to assess the effectiveness of the Practitioner Teacher Programs provided by universities, school districts, and other agencies.

**Program Process**

Areas	Course/Contact Hours	Activities	Support
1. Admission to Program (Spring and Early Summer)		<p>Program providers will work with district personnel to identify Practitioner Teacher Program candidates who will be employed by districts during the fall and spring.</p> <p>To be admitted, individuals must</p> <ol style="list-style-type: none"> <li>a. possess a baccalaureate degree from a regionally accredited university.</li> <li>b. have a 2.5 GPA on undergraduate work. (*Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider.)</li> <li>c. pass the Pre-Professional Skills Test (e.g., reading, writing, and mathematics) on the PRAXIS. (Individuals who already possess a graduate degree will be exempted from this requirement.)</li> <li>d. pass the content specific examinations for the PRAXIS:               <ol style="list-style-type: none"> <li>(1) Practitioner candidates for Grades 1-6 (regular and special education): Pass the <i>Elementary Education Content Knowledge (#0014)</i> examination;</li> <li>(2) Practitioner candidates for Grades 4-8 (regular and special education): Pass the <i>Middle School Content Knowledge</i> examination (#0146);</li> <li>(3) Practitioner candidates for Grades 7-12 (regular and special education): Pass the <i>content specialty examination(s)</i> (e.g., English, Mathematics, etc.) on the PRAXIS in the content area(s) in which they intend to teach.</li> </ol> </li> <li>e. meet other non-course requirements established by the program providers</li> </ol>	

B. Structure for a Practitioner Teaching Program (Cont'd)

Program Process (Cont'd)

Areas	Course/Contact Hours	Activities	Support
2. Teaching Preparation (Summer)	9 credit hours or 135 equivalent contact hours (5-8 weeks)	All teachers will participate in field-based experiences in school settings while completing the summer courses (or equivalent contact hours). Grades 1-6, 4-8, and 7-12 practitioner teachers will successfully complete courses (or equivalent contact hours) pertaining to child/adolescent development/psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies before starting their teaching internships. Mild/moderate special education teachers will successfully complete courses (or equivalent contact hours) that focus upon the special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods/materials for mild/moderate exceptional children, and vocational and transition services for students with disabilities.	Program Providers
3. Teaching Intemship and First Year Support (Fall and Spring)	9 credit hours or 135 equivalent contact hours throughout the year. (Note: No fewer than 45 contact hours should occur during the fall.)	Practitioner teachers will assume full-time teaching positions in districts. During the school year, these individuals will participate in two seminars (one seminar during the fall and one seminar during the spring) that address immediate needs of the Practitioner Teacher Program teachers and will receive one-on-one supervision through an internship provided by the program providers. The practitioner teacher will also receive support from school-based mentor teachers (provided by the Louisiana Teacher Assistance and Assessment Program) and principals.	Program Providers, Principals and Mentors
4. Teaching Performance Review (End of First Year)		Program providers, principals, mentors, and practitioner teachers will form teams to review the first year teaching performance of practitioner teachers and to determine the extent to which the practitioner teachers have demonstrated teaching proficiency. If practitioner teachers demonstrate proficiency, they will enter into the assessment portion of the Louisiana Teacher Assistance and Assessment Program during the next fall. (If a practitioner teacher who passed the assessment portion of the Louisiana Teacher Assistance and Assessment Program prior to entering the Practitioner Teacher Program continues to demonstrate the Louisiana Components of Effective Teaching at the "competent" level, the team may, by unanimous decision, exempt the teacher from completing the Assessment part of the Louisiana Assistance and Assessment Program.) If weaknesses are cited, the teams will identify additional types of instruction needed to address the areas of need. Prescriptive plans that require from one to twelve credit hours (or 1-180 equivalent contact hours) of instruction will be developed for practitioner teachers. In addition, the teams will determine whether the practitioner teachers should participate in the new teacher assessment during the fall or whether the practitioner teachers should receive additional mentor support and be assessed after the fall.	

B. Structure for a Practitioner Teaching Program (Cont'd)

Program Process (Cont'd)

Areas	Course/Contact Hours	Activities	Support
5. Prescriptive Plan Implementation (Second Year)	1-12 credit hours (or 15-180 equivalent hours)	Practitioner teachers who demonstrate areas of need will complete prescriptive plans.	Program Providers
6. Louisiana Assessment Program (Second Year)		Practitioner teachers will be assessed during the fall or later depending upon their teaching proficiencies.	Program Providers
7. Praxis Review (Second Year)		Program providers will offer review sessions to prepare practitioner teachers to pass remaining components of the PRAXIS.	Program Providers
8. Certification Requirements (Requirements must be met within a three-year time period. A practitioner teacher's license will not be renewed if all course requirements are not met within these three years.)		Program providers will submit signed statements to the Louisiana Department of Education to indicate that the practitioner teachers completed Practitioner Teacher Programs and met the following requirements within a three-year time period: <ol style="list-style-type: none"> <li>1. passed the PPST components of the PRAXIS. (Note: This test was required for admission.)</li> <li>2. completed the Teaching Preparation and Teaching Internship segments of the program with a 2.5 or higher GPA.</li> <li>3. passed the Louisiana Teacher Assistance and Assessment Program.</li> <li>4. completed prescriptive plans (if weaknesses were demonstrated).</li> <li>5. passed the specialty examination (PRAXIS) for their area(s) of certification. <ol style="list-style-type: none"> <li>a. Grades 1-6: <i>Elementary Education Content Knowledge</i></li> </ol> </li> </ol>	

		<p><i>Examination #014 (Note: This test was required for admission)</i></p> <p>b. Grades 4-8: <i>Middle School Content Knowledge Exam #0146 (Note: This test was required for admission.)</i></p> <p>c. Grades 7-12: <i>Specialty content test in areas to be certified. (Note: This test was required for admission.)</i></p> <p>d. Mild/Moderate Special Education 1-12: <i>Special Education (to be determined)</i></p> <p>6. passed the <i>Principals of Learning and Teaching</i> examination (PRAXIS)</p> <p>a. Grades 1-6: <i>Principles of Learning and Teaching;</i></p> <p>b. Grades 5-9: <i>Principles of Learning and Teaching;</i></p> <p>c. Grades 7-12: <i>Principles of Learning and Teaching.</i></p>	
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B. Structure for a Practitioner Teaching Program (Cont'd)

Program Process (Cont'd)

Areas	Course/ Contact Hours	Activities	Support
9. Ongoing Support (Second and Third Year)		Program providers will provide support services to practitioner teachers during their second and third years of teaching. Types of support may include on-line support, Internet resources, special seminars, etc.	Program Providers
10. Professional License (Practitioner License to Type B)		Practitioner teachers will be issued a Practitioner License when they enter the program. They will be issued a Type C Professional License once they have successfully completed all requirements of the program; after three years of teaching they will be eligible for a Type B license.	

**Undergraduate/Graduate Courses and Graduate Programs**

Universities may offer the courses at undergraduate or graduate levels. Efforts should be made to allow students to use graduate hours as electives if the students are pursuing a graduate degree.

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Interested persons may submit comments until 4:30 p.m., February 8, 2002, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

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

**RULE TITLE: Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Practioner Teacher Program/NTE Scores**

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

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

This policy provides for a streamlined alternate certification option that allows individuals to become certified with a Type B certificate after three years of full-time teaching and combined coursework, if they demonstrated required content knowledge, instructional expertise, and classroom management skills.

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

This policy should result in an increase in the number of certified teachers available to teach grades K-12 in Louisiana.

Marlyn J. Langley  
Deputy Superintendent  
Management and Finance  
0112#022

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC PRAXIS/NTE Scores (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. To address the new certification structure that becomes effective in 2002, this policy provides required scores on exams that will serve as admission and exit requirements for teacher certification programs. Two of the added examinations specifically address middle school (grades 4-8), a new certification category. This policy adopts the required scores on three PRAXIS examinations which have been added to the list of NTE/PRAXIS examinations required for teacher certification, as follows: #0014C Elementary Education: Content Knowledge, with a passing score of 147; #0146—Middle School: Content Knowledge, with a passing score of 150; and #0523—Principles of Learning and Teaching 5-9, with a passing score of 154.

**Title 28  
EDUCATION**

**Part I. Board of Elementary and Secondary Education**

**Chapter 9. Bulletins, Regulations, and State Plans**

**Subchapter A. Bulletins and Regulations**

**§903. Teacher Certification Standards and Regulations**

**A. Bulletin 746**

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**AUTHORITY NOTE:** Promulgated in accordance with RS. 17:6.A(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6), R.S. 17:391.1-391.10; R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825-827 (June 2001), LR 27:827-828 (June 2001), LR 27:828-829 (June 2001).

**PRAXIS/NTE Scores**

**Minimum Score Requirements for Certification in Louisiana, Effective 9/1/99**

(See next page for NTE tests/scores required for Louisiana certification prior to 9/1/99)<sup>1</sup>

Area Test	Area Score	Pre-Professional Skills Test			Principles of Learning & Teaching			
		PPST:R <sup>2</sup>	PPST:W <sup>2</sup>	PPST:M <sup>2</sup>	PLT K-6	PLT 5-9 <sup>4</sup>	OR	PLT 7-12
Administration and Supervision (0410)	620	---	---	---	---	---		---
Agriculture <sup>3</sup>	---	172	171	170	---	---		161
Art Education <sup>3</sup>	---	172	171	170	161	154	or	161
Biology & General Science (0030)	580	172	171	170	---	---		161
Business Education (0100)	540	172	171	170	---	---		161
Chemistry/Physics/Gen. Science (0070)	530	172	171	170				161
Early Childhood Education (0020)	510	172	171	170	161	---		---
Elementary Education: Curriculum, Instruction, & Assessment (0011)	156	172	171	170	161	---		---
Content Area Exercises (0012)	137							
Elementary Education: Content Knowledge (0014) <sup>4</sup>	147	172	171	170	161	---		---
Middle School: Content: Knowledge (0146) <sup>4</sup>	150	172	171	170	---	154		---
English Language, Literature, & Composition: Content Knowledge (0041)	160	172	171	170	---	---		161
Pedagogy (0043)	130							
French (0170)	520	172	171	170	---	---		161
German (0180)	500	172	171	170	---	---		161
Home Economics Education (0120)	510	172	171	170	---	---		161
Industrial Arts Education <sup>3</sup>	---	172	171	170	---	---		161
Mathematics (0060)	550	172	171	170	---	---		161
Music Education (0110)	530	172	171	170	161	154	or	161
Physical Education (0090)	550	172	171	170	161	154	or	161
Social Studies: Content Knowledge (0081)	149	172	171	170	---	---		161
Interpretation of Materials (0083)	152							
Spanish (0190)	540	172	171	170	---	---		161
Special Education <sup>3</sup>	---	172	171	170	161	154	or	161
Speech Communications <sup>3</sup>	---	172	171	170	---	---		161

<sup>1</sup> Individuals who achieved the required NTE score(s) may use those in lieu of the replacement PRAXIS test.

<sup>2</sup> Computer-Based Tests are available as an option.

<sup>3</sup> Area test is not required for certification in Louisiana.

<sup>4</sup> Exam approved 1025/01.

PPST:R<sup>2</sup>– Pre-Professional Skills Test: Reading (0710)  
 PPST:W<sup>2</sup>– Pre-Professional Skills Test: Writing (0720)  
 PPST:M<sup>2</sup> – Pre-Professional Skills Test: Mathematics (0730)  
 PLT K-6 – Principles of Learning & Teaching K-6 (0522)  
 PLT 5-9<sup>4</sup> – Principles of Learning & Teaching 5-9 (0523)  
 PLT 7-12 – Principals of Learning & Teaching 7-12 (0524)

Computer-Based Tests:  
 CBT Reading (0711) 319  
 CBT Writing (0721) 316  
 CBT Mathematic s (0731) 315

All newly-adopted Praxis scores used for certification must be sent directly from ETS to the State Department of Education, either through tape transmission or hard copy score reports, effective September 1, 1999.

NTE Minimum Score Requirements for Certification in Louisiana  
Prior to September 1, 1999

Area Test	Area Score	Core Battery Test CS GK PK		
Administration and Supervision (0410)	620	---	---	---
Agriculture*	---	645	644	645
Art Education*	---	645	644	645
Biology & General Science (0030)	580	645	644	645
Business Education (0100)	540	645	644	645
Chemistry/Physics/General Science (0070)	530	645	644	645
Early Childhood Education (0020)	510	645	644	645
Education in Elementary School (0010)	550	645	644	645
English Language/Literature (0040)	550	645	644	645
French (0170)	520	645	644	645
German (0180)	500	645	644	645
Home Economics Education (0120)	510	645	644	645
Industrial Arts Education*	---	645	644	645
Mathematics (0060)	550	645	644	645
Music Education (0110)	530	645	644	645
Physical Education (0090)	550	645	644	645
Social Studies (0080)	550	645	644	645
Spanish (0190)	540	645	644	645
Special Education *	---	645	644	645
Speech*	---	645	644	645

\*Area test is not required for certification in Louisiana.  
CS = Core Battery: Communication Skills (0500)  
GK = Core Battery: General Knowledge (0510)  
PK = Core Battery: Professional Knowledge (0520)

\* \* \*

Interested persons may submit comments until 4:30 p.m., February 8, 2002, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 746C-Louisiana Standards  
for State Certification of School  
Personnel/PRAXIS/NTE Scores**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
This policy will have no effect on revenue collections.

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

This policy provides for the addition of three PRAXIS examinations to the list of required examinations for teacher certification in Louisiana, as follows: #0014—Elementary Education: Content Knowledge, with a passing score of 147; #0146—Middle School: Content Knowledge, with a passing score of 150; and #0523—Principles of Learning and Teaching 5-9, with a passing score of 154. This represents no additional cost to certification applicants, who have historically been required to pass PRAXIS examinations as a requirement for certification.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The newly validated examinations will serve as admission and exit requirements for Louisiana's redesigned certification structure. Two of the examinations that have been added specifically address the new certification category of middle school (grades 4-8). The policy will have no effect on competition and employment

Marlyn J. Langley  
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Management and Finance  
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H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State  
Certification of School PersonnelC Supervisor  
of Student Teaching (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This Bulletin 746 policy removes the necessity for formally adding a certification endorsement for "Supervisor of Student Teaching." Instead, a teacher can qualify to act as a supervisor of student teaching under one of three conditions: (1) a valid Type A Louisiana certificate in the field of supervisory assignment; (2) a valid Type B Louisiana certification in the field of the supervisory assignment and successful completion of a three-credit-hour course in the supervision of student teaching; or (3) a valid Type B Louisiana certificate in the field of the supervisory assignment and successful completion of assessor training through the Louisiana Teacher Assistance and Assessment Program. This action will allow Louisiana teacher education programs more flexibility in assigning student teachers to a qualified supervisor in the field.

#### Title 28 EDUCATION

#### Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations §903. Teacher Certification Standards and Regulations

##### A. Bulletin 746

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825-827 (June 2001), LR 27:827-828 (June 2001), LR 27:828-829 (June 2001), LR 28:

##### Supervisor of Student Teaching Policy

A classroom teacher can serve as a supervisor of student teaching if he/she satisfies any one of the following conditions:

1. a valid Type A Louisiana certificate in the field of the supervisory assignment;
2. a valid Type B Louisiana certificate in the field of the supervisory assignment and successful completion of the three-credit-hour course in the supervision of student teaching; or
3. a valid Type B Louisiana certificate in the field of the supervisory assignment and successful completion of assessor training through the Louisiana Teacher Assistance and Assessment Program.

\* \* \*

Interested persons may submit comments until 4:30 p.m., February 8, 2002, to Nina Ford, State Board of Elementary

and Secondary Education, P.O. Box 94064, Capitol Station,  
Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Supervisor of Student Teaching

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

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

This Bulletin 746 policy removes the necessity for formally adding a certification endorsement for "Supervisor of Student Teaching." Instead, a teacher can qualify to perform the duties of a supervisor or student teaching under any one of three stated conditions: (1) a valid Type A Louisiana certificate in the field of the supervisory assignment; (2) a valid Type B Louisiana certification in the field of the supervisory assignment and successful completion of a three-credit-hour course in the supervision of student teaching; or (3) a valid Type B Louisiana certificate in the field of the supervisory assignment and successful completion of assessor training through the Louisiana Teacher Assistance and Assessment Program. This represents a reduction in certification costs, providing that one can perform the supervisory duties without formally adding an endorsement to a teaching certificate, and an increased opportunity for teachers currently in the workforce to earn supplemental income.

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

The policy will have no effect on competition and employment.

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Management and Finance  
0112#020

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 1891C Louisiana's IEP Handbook for  
Gifted/Talented Students (LAC 28:LV.Chapters 1-11)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to Bulletin 1891, *Louisiana's IEP Handbook for Gifted/Talented Students* (R.S. 17:1941, et seq.). The present revision is being published in codified form; hence historical notes will reflect a history, by section, from this time forward.

*Louisiana's IEP Handbook for Gifted/Talented Students* are the regulations for developing the Gifted/Talented

Individualized Education Plan (IEP) for identified Gifted/Talented students in the school districts. Regulations regarding the types of IEPs, timelines, participants, school district responsibilities, and due process procedures are included. The development of *Louisiana's IEP Handbook for Gifted/Talented Students* is the result of the adoption of *Regulations for Implementation of Children with Exceptionalities Act, Subpart B, Regulations for Gifted/Talented Students* in August 2000 which separated the regulations for the disabled from the regulations for the gifted/talented.

**Title 28  
EDUCATION**

**Part LV. Bulletin 1891C Louisiana's IEP Handbook for  
Gifted/Talented Students**

**Chapter 1. Purpose**

**§101. Introduction**

A. *Louisiana's IEP Handbook for Gifted/Talented Students*, revised 2001, provides information regarding the Individualized Education Program (IEP), the basis for educational programming for G/T students in Louisiana. The handbook describes the IEP process and the legal procedures involved as mandated by Revised Statute 17:1941, et seq., and its regulations. This handbook outlines mandatory procedures. It serves as a training vehicle for interested parties in the effort to improve the quality of Gifted/Talented IEPs in Louisiana.

B. A separate IEP form described in the handbook must be used for all students identified as gifted and talented, with the exception of students, gifted and/or talented who have an identified disability.

C. Any student with a disability as identified in the *Pupil Appraisal Handbook* and identified as gifted/talented will use the IEP for students with a disability to develop his/her individualized educational program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**Chapter 3. Types of IEPs**

**§301. The IEP and evaluation/re-evaluation of G/T students.**

A. The IEP process is one intertwined with the process of evaluation and re-evaluation of G/T students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**§303. The Four Types of IEPs**

A. The INTERIM IEP may be developed for students who have been receiving special educational services in another state concurrent with the conduct of an evaluation. An interim IEP may also be developed for students out of school, to age 22, who have left a public school before obtaining a state diploma.

B. The INITIAL IEP is developed for a G/T student who has met criteria for one or more exceptionalities outlined in the *Pupil Appraisal Handbook* and who has never received special educational services, except through an interim IEP, from an approved Louisiana school/program.

C. The REVIEW IEP is reviewed and revised at least annually or more frequently to consider the appropriateness

of the program, placement, and any related services needed by the student.

D. The DECLASSIFIED IEP is developed when a student's reevaluation determines the student is no longer exceptional. This IEP allows the student to receive special educational services for up to one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**Chapter 5. Initial IEP Development  
§501. Responsibilities**

A. A student is initially determined to be exceptional through the individual evaluation process. The responsibility for making a formal commitment of resources to ensure a free, appropriate public education (FAPE) for a student identified as exceptional rests with the local education agency (LEA) in which the student resides. Note: Louisiana Revised Statute 17:1941 et seq., clearly indicates that while the local educational agency must locate and identify all students who meet the criteria for gifted/talented, the LEA is not responsible for providing FAPE to gifted/talented students whose parents have voluntarily enrolled the student in a private school.

B. The LEA is responsible for initiating the assurance of FAPE regardless of whether the system will:

1. provide all of the service directly or through interagency agreements;
2. place the student in another system or in a nonpublic facility; or
3. refer the student to another LEA for educational purposes.

C. The responsibility for offering FAPE is met through the process of developing an initial IEP. This process includes:

1. communication between the LEA and the parents;
2. IEP meeting(s) at which parents and school personnel make joint decisions and resolve any differences about the student's needs and services;
3. a completed IEP/placement document, which describes the decisions made during the meeting(s), including special education and related services that are to be provided;
4. a formal assurance by the LEA that the services described in the document will be provided;
5. parental consent for initial placement;
6. procedural safeguards for differences that cannot be resolved mutually; and
7. initial placement and provision of services as described in the IEP/placement.

D. The LEA is required to offer FAPE to those G/T students whose ages fall between 3 and 21 years.

1. The responsibility for providing services to a G/T student continues until:

- a. the student receives a State diploma; or
- b. the student reaches his or her twenty-second birthday. (If the twenty-second birthday occurs during the course of the regular school session, the student shall be allowed to remain in school for the remainder of the school year.

2. The LEA is not responsible for providing FAPE if, after carefully documenting that the agency has offered

FAPE via an IEP, the parents choose to enroll the student voluntarily elsewhere or indicate their refusal of special educational services. Documentation of these parental decisions should be kept on file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### §503. Timelines

A. An initial evaluation is considered "completed" when the written report has been disseminated by the pupil appraisal staff to the administrator of special education programs. A LEA has a maximum of 30 calendar days after the completion of the evaluation to complete the IEP/placement document for an eligible student. During this time, two activities must take place and be documented.

1. Written Notice(s) that the LEA proposes to provide FAPE through the IEP process must be given to the parents. The notice(s) must be provided in the parents' native language or must be given using other means of communication, whenever necessary, to assure parental understanding.

2. The notice(s) must indicate the purpose, time, and location of the IEP meeting; who will be in attendance; the parents' right to take other participants to the meeting; the student's right to participate (when appropriate); and the name of the person in the LEA the parents can contact if and when they have questions or concerns.

3. The notice(s) must explain the procedural safeguards available to the parents: that they can negotiate the time and place of the IEP meeting, that they have the right to full and meaningful participation in the IEP decision-making process, that their consent is required before initial placement will be made, and that all information about the student shall be kept confidential.

4. Additionally, if the LEA has not already done so, the system must inform the parents of their right to an oral explanation of the evaluation report and of their right to an independent education evaluation (IEE) if the parents disagree with the current evaluation.

B. An IEP meeting(s) that results in a completed IEP/placement document must be held. The IEP meeting(s) should be a vehicle for communication between parents and school personnel to share formal and informal information about the student's needs, educational projections, and services that will be provided to meet the student's needs. The completed IEP/placement document is a formal record of the IEP team's decisions. The timeline for completion of the document is intended to ensure that there is no undue delay in providing a free, appropriate public education (FAPE) for the student. The document is "completed" when the form has been completed and signed by the LEA's officially designated representative.

#### Additional Notes About Timelines

Summer Recess. When an initial evaluation report has been completed within the 30 days prior to the summer recess or during the recess, the LEA may request, through written documentation, parental approval to delay the initial IEP meeting until the first week of the next school session. However, if the parents wish to meet during the summer recess, the LEA must ensure that the appropriate IEP team members are present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### §505. Participants

A. At any initial IEP meeting, the following participants must be in attendance: an officially designated representative of the LEA, the student's regular education and special education teachers, the student's parent(s), and a person knowledgeable about the student's evaluation procedures and results. The student, as well as other individuals the parents and/or LEA may deem necessary, should be given the opportunity to attend. Documentation of attendance is required.

1. An officially designated representative of the LEA (ODR) is one who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of G/T students, is knowledgeable about the general curriculum, and is knowledgeable about the availability of resources of the LEA. The LEA may designate another LEA member of the IEP team to serve also as the agency representative, if the above criteria are satisfied. A special education teacher cannot serve as the ODR for a child's IEP if he/she is also the child's teacher. A LEA must have on file and must disseminate within the agency a policy statement naming the kinds of persons who may act as the official representative of the LEA. Representatives may include the director/supervisor of special education, principals, instructional strategists, teachers, or any other LEA employee certified to provide or supervise special educational services. A member of the student's evaluation team may serve in this capacity.

2. Parents are equal participants in the IEP process in discussing the educational and related services needs of the student and deciding which placement and other services are appropriate. As such, one or both of the student's parents should participate in the initial IEP/placement meeting(s). Other team members must rely on parents' to contribute their perspective of the student outside of school. Parental insight about the student's strengths and support needs, learning style, temperament, and ability to work in various environments is of vital importance to the team in making decisions about the student's needs and services. The concerns of the parents for enhancing the education of their child must be documented in the IEP.

NOTE 1: *Parent* is defined as a natural or adoptive parent of a child; a guardian, but not the State if the child is ward of the State; a person acting in the place of a parent of a child (such as a grandparent or stepparent with whom the child lives or a person who is legally responsible for the child's welfare); or a surrogate parent who has been appointed. A foster parent may qualify as a "parent" when the natural parents' authority to make educational decisions on the child's behalf has been extinguished under State law, and the foster parent has an ongoing, long-term parental relationship with the child; is willing to participate in making educational decisions in the child's behalf; and has no interest that would conflict with the interests of the child.

B. The LEA must take measures to ensure that parents and all other team members, including sensorially impaired and non-English-speaking participants, can understand and actively participate in discussions and decision-making. These measures (i.e., having an interpreter or translator) should be documented. Local education agencies shall further ensure that, for those parents who cannot physically attend the IEP meeting(s), every effort is made to secure parental participation. After documenting attempts to arrange

a mutually convenient time and place, several possibilities remain.

1. The meeting(s) may be conducted via telephone conference calls.

2. The IEP team may consider parental correspondence to the school regarding the student's learning environment, any notes from previous parental conferences, and any data gathered during the screening and evaluation period.

3. Visits may be made to the parents' home or place of employment to receive parental suggestions.

4. If, however, every documented attempt fails and the IEP/placement document is developed without parental participation, the parents still must give written informed consent for initial placement before any special education services may begin.

NOTE 2: When a G/T student has a legal guardian or has been assigned a surrogate parent by the LEA, that person assumes the role of the parent during the IEP process in matters dealing with special educational services. When a G/T student is emancipated, parental participation is not mandated. Additionally, if the LEA has been informed that a parent is legally prohibited from reviewing a student's records, that parent may not attend the IEP meeting(s) without permission of the legal guardian.

NOTE 3: Beginning at least one year before the student reaches the age of majority, the parents will be informed that the rights under state statute will transfer to the student.

C. An evaluation representative is a required participant at an initial IEP meeting. The person may be a member of the pupil appraisal team that performed the evaluation or any person knowledgeable about and able to interpret the evaluation data for that particular student.

D. A regular education teacher is at least one of the student's regular teachers (if the student is, or may be, participating in the regular education environment). The teacher must, to the extent appropriate, participate in the development, review, and revision of the student's IEP.

1. Thus, while a regular education teacher must be a member of the IEP team if the child is, or may be, participating in the regular education environment, the teacher need not (depending upon the child's needs and the purpose of the specific IEP team meeting) be required to participate in all decisions made as part of the meeting or to be present throughout the entire meeting or attend every meeting. For example, the regular education teacher who is a member of the IEP team must participate in discussions and decisions about how to modify the general curriculum in the regular classroom to ensure the child's involvement and progress in the general curriculum and participation in the regular education environment.

E. A special education teacher is at least one of the student's special education teachers, or when appropriate, at least one special education provider of the student.

F. The student should be given the opportunity to participate in the development of the IEP. In many cases, the student will share responsibility for goals and objectives.

1. Beginning at least one year before the student reaches the age of majority, by the student's seventeenth birthday, the student must be informed that his or her rights under state statute will transfer to him or her.

G. Other individuals may be invited, at the discretion of the parent or LEA, who have knowledge or special expertise regarding the student, including related service personnel as

appropriate. The LEA also must inform the parents of the right of both the parents and the agency to invite other individuals who have knowledge or special expertise regarding the child, including related service personnel as appropriate to be members of the IEP team. The LEA may recommend the participation of other persons when their involvement will assist the decision-making process.

1. It is also appropriate for the LEA to ask the parents to inform the LEA of any individuals the parents will be taking to the meeting. Parents are encouraged to let the LEA know whom they intend to take. Such cooperation can facilitate arrangements for the meeting and help ensure a productive, child-centered meeting.

NOTE: The determination of the knowledge or special expertise of any individual described above shall be made by the parent or LEA, whoever invited the individual to be a member of the IEP team.

H. When the LEA responsible for the initial IEP/placement process considers referring or placing the student in another LEA, the responsible LEA must ensure the participation of a representative of the receiving system at the IEP meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

#### **§507. Placement Decisions**

A. The IEP team has the responsibility for determining the special education needs and placement for a G/T student. Program decisions must be made and written on the IEP in the following areas that form the basis for the placement:

1. the student's strengths and support needs;
2. the concerns of the parents for enhancing the education of their child;
3. the results of the initial evaluation or most recent reevaluation of the student;
4. as appropriate, the results of the student's performance on any general state or district-wide assessment program;
5. the student's present levels of educational performance;
6. in the case of a student with limited English proficiency, whose language needs relate to the student's IEP;
7. the measurable annual goals, including benchmarks or short-term objectives, related to:
  - a. meeting the student's needs that result from the student's exceptionality and progress in an accelerated and enriched curriculum;
  - b. meeting each of the student's other educational needs that result from the student's exceptionality; and
  - c. appropriate activities for the preschool-aged student;
8. a statement of related services and program modifications for school personnel that will allow the student to advance appropriately toward the annual goals;
9. the explanation of the extent, if any, to which the student will not participate with students in the regular class and extracurricular and other nonacademic activities;
10. any individual modifications and/or accommodations in the administration of State or district-wide assessments of student achievement that are needed in

order for the student to participate in the assessment as documented by an attached Section 504 Plan;

11. and the anticipated frequency, location, and duration of the special education services and modifications.

B. The IEP team, following a discussion of the student's educational needs, must choose a setting(s) in which the educational needs will be addressed. The term placement refers to the setting or class in which the student will receive special educational services.

C. Placement decisions for students whose ages are 6-21. For the location of instruction/ services, IEP team members should consider the following.

1. Where would the student attend school if he or she did not have an exceptionality?

2. Based on IEP goals and objectives or benchmarks, what the instructional setting(s) would support the achievement of these goals and objectives or benchmarks?

D. For students aged 6-21. Utilizing the above information, the IEP team should choose the most appropriate setting from the continuum below:

1. regular classroom (less than 21 percent of the day outside the regular class);

2. resource with regular classes (at least 21 percent, but no more than 60 percent of the day outside the regular class);

3. self-contained class on a regular campus (more than 60 percent of the day outside the regular class.

E. For students aged 3-5. In determining the appropriate setting for a preschool-aged student, each noted setting must be considered; but the list should not be considered a continuum of least restrictive environment. The settings for preschool-aged students, three through five years, are defined as follows.

1. Regular Preschool Placement/Head Start, Title 1, kindergarten, pre-kindergarten, child care center, Even Start, 4 year-old at-risk program, or any other program designed for children.

2. Self-Contained/CA preschool class, or any other program designed for exceptional children.

F. The official designated representative shall be knowledgeable about placement considerations and shall be responsible for informing the IEP team members. The IEP team must participate in decisions made about the placement; however, the LEA has the right to select the actual school site in view of committee decisions.

NOTE: See Section 2 for the complete instructions for writing the IEP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### **§509. Additional Clarification**

A. Although throughout Louisiana most exceptional students are served in their neighborhood schools, there are some extenuating circumstances that impact the decision to serve a student in a school other than his or her neighborhood school.

B. The following is provided as an example: A Resource Center for Gifted/Talented is a type of instructional setting, designed or located in one school, that provides instructional services to students who are gifted/talented from two or more schools and in which special education is provided by an individual certified in accordance with *Bulletin 746*;

pupil/teacher ratios established in *Bulletin 1706 G/T* are used; instructional time is not less than two and one-half hours per week.

C. In addition to the questions on the IEP and Site Determination Form, the following issues must be considered:

1. students should be placed in programs on the basis of their unique needs;

2. placement cannot be based on either a particular local education agency's special education delivery system or on the availability of related services;

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### **§511. Related Services Decisions**

A. If an identified gifted/talented student needs related services including transportation, or counseling, then the IEP should address these concerns on the IEP document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### **§513. Accommodations/Modifications for LEAP**

#### **Testing**

A. G/T students shall be included in the Louisiana Educational Assessment Program with appropriate accommodations and modifications in administration. These accommodations and modifications should be incorporated in the student's educational program throughout the year. The Section 504 Plans should be attached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### **§515. Parental Consent**

A. A LEA must obtain formal parental consent before it can initially provide a student with special education in any setting. Consent includes the following:

1. the parent and/or student has been fully informed of all relevant information in a manner that is clearly understandable to the parent and/or student; and

2. the parent and/or student formally agree/agrees in writing.

B. After the parent and/or student have/has given written consent, the IEP is in effect. The parent and/or student must be provided a completed copy of the IEP/placement document signed by the official designated representative of the LEA.

NOTE: The student's consent is needed once the student reaches the "age of majority."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### **§517. Parental Withholding of Consent**

A. Parents may disagree with all or some part(s) of the initial program, placement, or related services proposals. The LEA and the parents should make conciliatory attempts to resolve the disputes, including making modifications to the proposed program, placement, and related services. A LEA may not use a parent's refusal to consent to one service or activity to deny the parent or student any other service, benefit, or activity of the LEA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### **§519. Mediation**

A. Mediation is an informal, voluntary process by which the parent and the LEA are given an opportunity, through the help of a trained mediator, to resolve their differences and find solutions to enhance the overall learning environment for the student. Differences may arise in the planning and implementing of programs for exceptional students. It is important for parents and LEAs to have an opportunity to present their viewpoint in a dispute.

NOTE: See Louisiana's Educational Rights of Gifted/Talented Children in Public Schools and the Mediation Services for Students with Exceptionalities brochure for more information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### **§521. Due Process**

A. The parents and the LEA both have the right to an "impartial due process hearing" when disagreements arise between the parent and the LEA relative to initiating or changing the identification, evaluation, or educational placement of a student with an exceptionality. Due process hearings may be initiated by the parent or the LEA.

B. See Louisiana's Rights of Gifted/Talented Children in Public Schools and the Mediation Services for Students with Exceptionalities brochure for more information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### **§523. Implementation of the IEP**

A. Implementation of the IEP means that the student begins participating in the special education placement and related services as written on the IEP/placement document. A LEA must begin providing services as stated on the IEP within 10 calendar days. The date of initiation of services shall be noted on the IEP. When meetings occur during the summer or other vacation periods, a delay may occur. When meetings to develop the initial IEP/placement document occur just prior to the summer vacation, the date of implementation of services may be delayed to the beginning of the next school year if the parent(s) agree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

## **Chapter 7. Review IEP Development**

### **§701. Responsibilities and Timelines**

A. A LEA is required to initiate and conduct IEP meetings periodically, but not less than annually, to review each student's IEP in order to determine whether the annual goals for the student are being achieved and to revise the IEP as appropriate. The LEA must notify parents of the review IEP meeting or the review/reevaluation IEP meeting in accordance with the same procedures as the initial IEP.

B. An additional IEP/placement review meeting is not required when a LEA elects to move the student to another school site within the agency when all of the information on the IEP remains the same and the effect of the program has not been changed.

C. The IEP team should:

1. review the student's progress toward achieving the annual goals and objectives/benchmarks;
2. review the student's progress in the general education curriculum;
3. discuss any lack of expected progress toward the annual goals and in the general education curriculum;
4. review the results of the student's performance on any State or district-wide assessment;
5. review the results of any reevaluation;
6. review information about the child provided to, or by, the parents;
7. discuss the student's anticipated needs;
8. review the student's special educational needs; for the preschool-aged child, address his or her developmental needs;
9. make updated decisions about the student's program and placement;
10. in making decisions for location of instruction/services, refer to pages 12-14 of this handbook for guidance;
11. any other concerns.

D. A review meeting must be conducted in addition to the required annual review when:

1. a student's teacher feels the student's IEP or placement is not appropriate for the student; or
2. the student's parents believe their child is not progressing satisfactorily or that there is a problem with the student's IEP; or
3. the LEA proposes any changes regarding program or placement, such as to modify, add, or delete a goal or objective; to add or delete a related service; or
4. either a parent or a public agency believes that a required component of the student's IEP should be changed; or
5. the LEA must conduct an IEP meeting if it believes that a change in the IEP may be necessary to ensure the provision of FAPE; or
6. a hearing officer orders a review of the student's IEP/placement document;
7. an out-of-district placement or referral is being proposed.

NOTE: A review IEP meeting must be conducted as part of the reevaluation process.

E. In the cases listed above, it may not be necessary to rewrite the entire IEP/placement document. However, the following documentation must be provided:

1. signatures of the team members;
2. the date of the meeting;
3. the changes made in the IEP; and
4. the dated signatures of the official designated representative of the system and the parent who authorized the change.

F. In the case in which the IEP/placement document is entirely rewritten, the date of that meeting shall become the anniversary date for the next annual review meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### **§703. Participants**

A. The LEA must ensure there is attendance by an officially designated representative of the system, the

student's regular education and special education teachers, the parents, and the student, as appropriate. At the discretion of the parent(s) or the LEA, other individuals who have knowledge or special expertise regarding the student may attend. A representative of another LEA or approved facility may be included if a placement in or referral to another LEA is proposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

#### **§705. Placement Decisions**

A. The IEP team must address the placement of the student according to the same placement guidelines required for an initial IEP meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### **Chapter 9. Declassified IEP Development**

#### **§901. Responsibilities and Timelines**

A. Following the receipt of a re-evaluation that indicates no exceptionality for a student currently enrolled in special education, the LEA has two options. The LEA may:

1. place the child in regular education after obtaining formal parental approval; or
2. recommend a declassified special education program.

B. When the declassified program is chosen, an IEP meeting must be held and conducted in accordance with all the guidelines required for a review meeting. This IEP may be in effect for up to one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

#### **§903. Placement Decisions**

A. The declassified IEP provides the student with a systematic, structured program for moving into regular education. The declassified program shall include regular education in combination with special educational services. The IEP team should discuss and document on the IEP the systematic plan for the student's full integration into regular classes by the end of the specified time. This plan may be documented by indicating a decreasing range of time in special classes during the year and/or by writing goals and objectives that indicate a gradually reduced special support system for the student. Such documentation will remove the necessity to reconvene the IEP team during the year as the placement gradually changes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### **Chapter 11. Interim IEP Development**

#### **§1101. Responsibilities and Timelines**

A. The interim IEP provides a basis on which the student may begin to receive special educational and related services and provides an appraisal program to gather assessment data for the individual evaluation process.

B. A student must be offered enrollment in a LEA. This enrollment process, from initial entry into the LEA to placement, shall occur within 10 school days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

#### **§1103. Placement Decisions**

A. Local supervisors of special education may approve enrollment in special education after existing student information has been reviewed by pupil appraisal personnel. An interim IEP would be developed and formal parental approval obtained. The interim IEP remains in effect as long as the evaluation is in process and may be revised as necessary. During this time all regulations pertaining to gifted/talented students shall apply. The interim IEP shall not exceed the duration of the evaluation.

B. Often, discussion about the current performance, goals, and objectives for the student will have to be conducted without the benefit of integrated assessment data or teacher observation.

C. To gather information about current performance, the parent may be the prime source of information about the student's skills, development, motivation, learning style, etc.

D. The goals and objectives should address the student's educational program during the assessment process.

E. When available information indicates that related services are required, services should be provided.

F. The student's performance during an interim placement must be documented by the teacher and pupil appraisal personnel. This documentation should provide meaningful data for determining an appropriate program and placement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

#### **§1105. Parental Consent**

A. Parental consent for the interim placement and related services must be obtained by parental signature on the IEP form.

B. Parents should be informed that the student will exit from the special educational program if the student is found to be ineligible for special educational services according to the criteria of the Pupil Appraisal Handbook.

C. If the student is eligible for special educational services, an initial IEP/placement meeting will be conducted within 30 calendar days from the date of dissemination of the written evaluation to the LEA's special education administrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Interested persons may submit written comments until 4:30 p.m., February 8, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

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

**RULE TITLE: Bulletin 1891C Louisiana's IEP  
Handbook for Gifted/Talented Students**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There will be no implementation costs to local government. The cost of dissemination will be approximately \$400 from state funds.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections of state or local government.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no costs or economic benefits to directly affected persons or non-governmental groups. This document has never been codified. This is a revised, updated document which will replace the document in use prior to the separation of the regulations for the disabled and for the gifted/talented students.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition or employment.

Marlyn Langley  
Deputy Superintendent  
Management and Finance  
0112#023

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Dissolved Oxygen Criteria for Beaucoup Creek,  
Middle Fork Bayou D'Arbonne,  
Bayou Cocodrie, and Cocodrie Lake  
(LAC 33:IX.1123)(WQ042)

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 Water Quality regulations, LAC 33:IX.1123.C.3.Table 3 (Log #WQ042).

The numerical dissolved oxygen criteria for two Water Quality Management Subsegments in the Ouachita Basin (Beaucoup Creek, 081503, and Middle Fork Bayou D'Arbonne, 080610) and two subsegments in the Vermillion-Teche Basin (Bayou Cocodrie, 060201, and Cocodrie Lake, 060102) are being revised. Use Attainability Analyses of these subsegments have determined that naturally dystrophic critical periods for dissolved oxygen occur during parts of

each year. While these water bodies exhibit naturally occurring seasonal variations in dissolved oxygen, no changes in designated uses are proposed. As part of the Louisiana Water Quality Management Plan, the State publishes a list of priority water bodies biennially under the Clean Water Act Section 305(b). In accordance with the Clean Water Act Section 303(d), water bodies are placed on a list of priority water bodies when assessment methodology indicates that they do not meet applicable water quality standards. After further review and assessment, some of these water bodies may be prioritized for fieldwork, Use Attainability Analyses, and Total Maximum Daily Load development. Until a Use Attainability Analysis is conducted to determine attainable uses and criteria, a Total Maximum Daily Load based upon national criteria may be inappropriate for many water bodies. Beaucoup Creek (081503), Middle Fork Bayou D'Arbonne (080610), Bayou Cocodrie (060201), and Cocodrie Lake (060102) have been classified as the highest priority on Louisiana's 303(d) list. Use Attainability Analyses have been conducted for these water bodies to determine the appropriate dissolved oxygen criteria. The Use Attainability Analyses present the required information for site-specific dissolved oxygen water quality standards revisions in accordance with state and federal water quality regulations, policies, and guidance. The basis and rationale for this Rule are to establish site-specific criteria for these subsegments developed as a result of the Use Attainability Analyses conducted for the sites.

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 IX. Water Quality**

**Chapter 11. Surface Water Quality Standards**

**§1123. Numerical Criteria and Designated Uses**

\* \* \*

[See Prior Text In A. - C.2]

3. Designated Uses. The following are the category definitions of Designated Uses that are used in Table 3 under the subheading "Designated Uses."

- AC Primary Contact Recreation
- BC Secondary Contact Recreation
- CC Propagation of Fish and Wildlife
- LC Limited Aquatic Life and Wildlife Use
- DC Drinking Water Supply
- EC Oyster Propagation
- FC Agriculture
- GC Outstanding Natural Resource Waters

Numbers in brackets, e.g. [1], refer to endnotes listed at the end of the table.

**Table 3.  
Numerical Criteria and Designated Uses**

AC Primary Contact Recreation;  
BC Secondary Contact Recreation;  
CC Propagation Of Fish And Wildlife;  
DC Drinking Water Supply;

EC Oyster Propagation;  
FC Agriculture;  
GC Outstanding Natural Resource Waters;  
LC Limited Aquatic Life And Wildlife Use

Code	Stream Description	Designated Uses	Criteria						
			CI	SO <sub>4</sub>	DO	pH	BAC	C	TDS
Atchafalaya River Basin (01)									
*** [See Prior Text In 010101 – 050901]									
Vermilion-Teche River Basin (06)									
*** [See Prior Text In 060101]									
060102	Cocodrie Lake	A B C	10	5	<sup>[19]</sup>	6.0-8.5	1	32	100
060201	Bayou Cocodrie from U.S. Hwy. 167 to the Bayou Boeuf Cocodrie Diversion Canal (Scenic)	A B C G	45	35	<sup>[19]</sup>	6.0-8.5	1	32	100
*** [See Prior Text In 060202 – 070601]									
Ouachita River Basin (08)									
*** [See Prior Text In 080101-080609]									
080610	Middle Fork of Bayou D'Arbonne from origin to Bayou D'Arbonne Lake (Scenic)	A B C G	50	15	<sup>[20]</sup>	6.0-8.5	1	32	200
*** [See Prior Text In 080701 – 081502]									
081503	Beaucoup Creek Headwaters to Castor Creek	A B C	25	25	<sup>[21]</sup>	6.0-8.5	1	32	100
*** [See Prior Text In 081504-120806]									

Endnotes:

\*\*\*  
[See Prior Text In [1] – [18](c)]

<sup>[19]</sup> Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5 mg/l November-March, 3.5 mg/l April-October.

<sup>[20]</sup> Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5 mg/l October-June, 3 mg/l July-September.

<sup>[21]</sup> Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5 mg/l October-June, 2.5 mg/l July-September.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1123 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2401 (December 1999), LR 27:289 (March 2001), LR 28:

A public hearing will be held on January 24, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed Amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed Regulations. Persons commenting should reference this proposed Regulation by WQ042. Such comments must be received no later than January 31, 2002, at 4:30 p.m., and should be sent to Patsy

Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389. Copies of this proposed Regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of WQ042.

This proposed Regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m. at 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Dissolved Oxygen Criteria for  
Beaucoup Creek, Middle Fork Bayou D'Arbonne,  
Bayou Cocodrie, and Cocodrie Lake  
(WQ042)**

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

No significant effect of this proposed Rule on state or local governmental expenditures is expected.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No significant effect on state or local governmental revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
No significant costs and/or economic benefits to directly affected persons or non-governmental groups are anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No significant effect on competition and employment is anticipated.

James H. Brent, Ph.D.  
Assistant Secretary  
0112#070

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

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

#### Locking of Sources of Radiation (LAC 33:XV.541)(RP028\*)

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 Radiation Protection regulations, LAC 33:XV.541 (Log #RP028\*).

This proposed rule is identical to federal regulations found in 62 FR 28948, May 28, 1997, and 10 CFR 34.23, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Section is critical to the safe operation of radiation equipment. It describes procedures for the locking of sources of radiation when not in use to prevent unauthorized or accidental production of radiation or removal or exposure of a sealed source. LAC 33:XV.541 is required for Nuclear Regulatory Commission (NRC)-state compatibility purposes. In final rule RP027\*, published in the August 20, 2001, *Louisiana Register*, this Section was inadvertently removed and replaced with the incorrect federal language. This proposed rule reinstates the correct language. The basis and rationale for this rule are to maintain compatibility with the NRC and to provide procedures for the securing of sealed sources of radiation.

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 XV. Radiation Protection

#### Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

##### §541. Locking of Sources of Radiation

A. Each radiographic exposure device must have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The exposure device and/or its container must be kept locked, with the key removed at all times for a keyed-lock, when not under the direct surveillance of a radiographer, a radiographer's assistant, or a trainee except at permanent radiographic installations in accordance with LAC 33:XV.585. In addition, during radiographic operations the sealed source assembly must be secured in the shielded position each time the source is returned to that position.

B. Each sealed source storage container and source changer must have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. Storage containers and source changers must be kept locked, with the key removed at all times for a keyed-lock, when containing sealed sources, except when under the direct surveillance of a radiographer, a radiographer's assistant, or trainee.

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 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1232 (August 2001), LR 28:

A public hearing will be held on January 24, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by RP028\*. Such comments must be received no later than January 24, 2002, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of RP028\*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA

71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary

0112#066

**NOTICE OF INTENT**

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

**Permit Procedures C Insignificant Activities List  
(LAC 33:III.501)(AQ222)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality regulations, LAC 33:III.501 (Log #AQ222).

This rule proposes the addition of activities to the "Insignificant Activities List." These activities (LAC 33:III.501.B.5) are approved by the permitting authority as insignificant on the basis of size, emission or production rate, or type of pollutant. By such listing, the permitting authority exempts certain sources or types of sources from the requirement to obtain a permit under LAC 33:III.Chapter 5, unless it is determined by the permitting authority on a site-specific basis that any such exemption is not appropriate. The regulated community has asked for an expansion of the "Insignificant Activities List" under LAC 33:III.Chapter 5.Permit Procedures. Currently, the list includes approximately 45 activities or emission sources that produce air pollutants in such small amounts that they are exempted from the requirement to obtain a permit under Chapter 5. This proposed rule adds ten insignificant activities to the list. This addition will benefit existing permitted sources in reducing the number of temporary variances or permit minor modifications they are required to obtain from the department. For example, a variance is now required to bring in a small portable gasoline tank used to fuel mobile equipment for a maintenance project. Under the expanded list, this would not require a permit action, provided the tank emissions from the temporary tank met the insignificant standard specified in the regulation. Also, small businesses would be aided by reducing the requirements to obtain an air emissions permit or temporary variance, particularly when bringing in equipment on a temporary basis for construction or maintenance activities, provided such equipment met all the standards defining an insignificant emission source. For example, an existing small business not otherwise required to have an air emissions permit would not have to obtain a permit to add a permanent standby electrical generator for use only during power outages, provided such use met the standards defining the insignificant emission source. The basis and rationale for this proposed rule are to further simplify and streamline the

permitting process involving very small air emission sources.

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 5. Permit Procedures  
§501. Scope and Applicability**

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[See Prior Text in A. - B.4.b]

5. Insignificant Activities List. Those activities listed in the following table are approved by the permitting authority as insignificant on the basis of size, emission or production rate, or type of pollutant. By such listing, the permitting authority exempts certain sources or types of sources from the requirement to obtain a permit under this Chapter unless it is determined by the permitting authority on a site-specific basis that any such exemption is not appropriate. The listing of any activity or emission unit as insignificant does not authorize the maintenance of a nuisance or a danger to public health or safety. Any activity for which a state or federal applicable requirement applies is not insignificant, even if the activity meets the criteria below. For the purpose of permitting requirements under LAC 33:III.507, no exemption listed in the following table shall become effective until approved by the administrator in accordance with 40 CFR part 70.

<b>Insignificant Activities List</b>
A. Based on Size or Emission Rate
Permit applications submitted under Subsection A of this Section for sources that include any of the following emissions units, operations, or activities must either list them as insignificant activities or provide the information for emissions units as specified under LAC 33:III.517:
1. external combustion equipment with a design rate greater than or equal to 1 million BTU per hour, but less than or equal to 10 million BTU per hour, provided that the aggregate emissions from all such units listed as insignificant do not exceed five tons per year;
*** [See Prior Text in 2-3]
4. emissions of any inorganic air pollutant that is not a regulated air pollutant as defined under LAC 33:III.502, provided that the aggregate emissions from all such pollutants listed as insignificant do not exceed five tons per year;
5. external combustion equipment with a design rate less than 1 million BTU per hour;
6. emissions from laboratory equipment/vents used exclusively for routine chemical or physical analysis for quality control or environmental monitoring purposes, provided that the aggregate emissions from all such equipment vents considered insignificant do not exceed five tons per year, do not exceed any minimum emission rate listed in LAC 33:III.Chapter 51, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with section 112(g) of the federal Clean Air Act;
7. noncommercial water washing operations of empty drums less than or equal to 55 gallons with less than 3 percent of the maximum container volume of material;
8. portable fuel tanks used on a temporary basis in maintenance and construction activities, provided that the aggregate emissions from all such tanks listed as insignificant do not exceed five tons per year;

9. emissions from process stream or process vent analyzers, provided that the aggregate emissions from all such analyzers listed as insignificant do not exceed five tons per year, do not exceed any minimum emission rate listed in LAC 33:III.Chapter 51, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with section 112(g) of the federal Clean Air Act;
10. storage tanks containing, exclusively, soaps, detergents, surfactants, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, molasses, corn syrup, aqueous salt solutions, or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials, the tanks are not subject to 40 CFR 60, subpart Kb or other federal regulation, and the aggregate emissions from all such tanks listed as insignificant do not exceed five tons per year, do not exceed any minimum emission rate listed in LAC 33:III.Chapter 51, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with section 112(g) of the federal Clean Air Act;
11. catalyst charging operations, provided all such operations listed as insignificant do not exceed five tons per year, do not exceed any minimum emission rate listed in LAC 33:III.Chapter 51, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with section 112(g) of the federal Clean Air Act; and
12. portable cooling towers used on a temporary basis in maintenance activities, provided the aggregate emissions from all such cooling towers listed as insignificant do not exceed five tons per year, do not exceed any minimum emission rate listed in LAC 33:III.Chapter 51, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with section 112(g) of the federal Clean Air Act.
B. Based on Activity
The following activities need not be included in a permit application:
*** [See Prior Text in 1-3]
4. exhaust emissions or vehicle refueling emissions from cars, trucks, forklifts, courier vehicles, front-loaders, graders, cranes, carts, maintenance trucks, locomotives, helicopters, marine vessels, and other self-propelled on-road and nonroad mobile sources unless required to obtain a permit under Title V of the Clean Air Act. This exemption does not include any transportable emissions units such as temporary compressors or boilers, unless regulated by Title II of the Clean Air Act. This exemption does not cover loading racks or fueling operations covered by LAC 33:III.Chapter 21;
*** [See Prior Text in 5-31]
32. emergency use generators, boilers, or other fuel burning equipment that is of equal or smaller capacity than the primary operating unit, cannot be used in conjunction with the primary operating unit [except for short durations when shutting down the primary operating unit (maximum of 24 hours) and when starting up the primary operating unit until it reaches steady -state operation (maximum of 72 hours)], and does not increase emissions of or the potential to emit any regulated air pollutant;
*** [See Prior Text in 33-38]
39. tall oil soap storage, skimming, and loading;
40. emissions from caustic storage tanks that contain no VOC;
41. emissions from fire fighting training conducted in accordance with LAC 33:III.1109.D.7;
42. emissions from <i>oil and gas well and pipeline</i> as defined in accordance with LAC 33:III.502;
43. produced water treatment units (e.g., Wemco units) on crude oil and natural gas production platforms in state waters of the Gulf of Mexico that discharge produced water in accordance with an LPDES permit. These units are the final step in water treatment prior to water discharge under the LPDES permit;

44. portable diesel fuel storage tanks used on a temporary basis in maintenance and construction activities;
45. emergency electrical power generators used only during power outages at sites not otherwise required to have a permit under LAC 33:III.Chapter 5 and operated no more than 500 hours per year; and
46. reserved.
*** [See Prior Text in C-D.d]

<sup>1</sup>State or federal regulations may apply.

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[See Prior Text in B.6 - C.10]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2011 and 2054.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:

A public hearing will be held on January 24, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by AQ222. Such comments must be received no later than January 31, 2002, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ222.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary

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

**RULE TITLE: Permit Procedures C Insignificant  
Activities List**

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

There will be no costs or savings to state or local governmental units to implement this rule.

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

The estimated effect on revenue collections of state governmental units from the proposed action will be negligible. There is no effect on revenue collections from local governmental units.

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

Economic savings, if any, will be minor, and are dependent on the future plans of individual facilities (the future addition of equipment deemed an "insignificant activity" on the expanded "Insignificant Activities List" that is not on the current list), and are not further quantifiable. As an example, an existing small business not otherwise required to have a permit, would have to apply for a temporary variance at a cost of \$226.00 to bring in an electrical power generator for temporary use during a power outage. Under the expanded "Insignificant Activities List" the variance would not be required, provided such use met the standard defining the "insignificant" emission source (usage less than 500 hours per year).

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

There is no effect on competition since all facilities must follow the same rules. There is no effect on employment.

James H. Brent, Ph.D.  
Assistant Secretary  
0112#067

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**UST Registration Requirements  
(LAC 33:XI.301 and 303)**

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 Underground Storage Tanks regulations, LAC 33:XI.301 and 303 (Log #UT009).

The proposed Rule revises the current regulations to require all owners of new underground storage tanks (UST) systems to register such tanks on the Underground Storage Tanks Registration Form (UST-REG-01) at least 30 days prior to bringing such tanks into use. The certification of installation form, UST Registration of Technical Requirements (UST-REG-02), will no longer be required to be submitted at the same time as the registration form. The proposed Rule requires that this form be submitted within 60 days after the introduction of a regulated substance. (Note that the form names have changed.) This Rule amends the

Underground Storage Tanks Regulations to correct the existing problem with registration of new UST systems. The current Regulations prohibit the placing of a regulated substance into an unregistered UST. The regulations currently require that in order to register a new UST, both the Registration of Underground Storage Tanks (UST-REG-01) form and the Registration of Technical Requirements for USTs (UST-REG-02) form be submitted within 30 days of bringing the tanks into use. This has caused a problem since the Registration of Technical Requirements for USTs form cannot be completed until a tank tightness test has been performed, which requires that the tank be filled with fuel. Therefore, the Regulations are being revised to allow registration of a UST by completing the UST-REG-01 form 30 days before bringing a UST into use. This would be followed by submission of the UST-REG-02 form 60 days after fuel has been dropped in the UST and the tank can be certified as tight. The basis and rationale for this proposed rule are to allow fuel to be dropped into a UST for the purpose of tank tightness testing without violating the UST 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 XI. Underground Storage Tanks**

**Chapter 3. Registration Requirements, Standards,  
and Fee Schedule**

**§301. Registration Requirements**

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[See Prior Text in A. - A.3]

B. New UST Systems. Upon the effective date of these regulations, all owners of new UST systems (as defined in LAC 33:XI.103) must, at least 30 days before bringing such tanks into use, register them on an *Underground Storage Tank Registration Form* (UST-REG-01). Registration forms shall be filed with the Office of Environmental Services, Permits Division. The following registration requirements apply to new UST systems:

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[See Prior Text in B.1 - C.3]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2194.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), LR 20:294 (March 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:

**§303. Standards for UST Systems**

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[See Prior Text in A. - A.4.b.i.(e)]

ii. Beginning January 20, 1992, all owners and operators must ensure that the individual exercising supervisory control over installation critical junctures (as defined in LAC 33:XI.1303) of an UST system is certified in accordance with LAC 33:XI.Chapter 13. To demonstrate compliance with Subsection A.4.a of this Section, all owners and operators must provide a certification of compliance on

the *UST Registration of Technical Requirements Form* (UST-REG-02) within 60 days of the introduction of any regulated substance. Forms shall be filed with the Office of Environmental Services, Permits Division.

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[See Prior Text in A.4.c - B.5.b]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2194.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:728 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:

A public hearing will be held on January 24, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed Regulations. Persons commenting should reference this proposed regulation by UT009. Such comments must be received no later than January 31, 2002, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of UT009.

This proposed Regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: UST Registration Requirements**

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

No implementation costs or savings to state or local governmental units are expected as a result of this Rule.

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

There should be no effect on revenue collections of state or local governmental units as a result of the implementation of this Rule.

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

This Rule will have no economic impact on owners or operators of Underground Storage Tanks (UST).

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

Competition and employment are not expected to be affected as a result of the implementation of this Rule.

James H. Brent, Ph.D.  
Assistant Secretary  
0112#069

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Office of Financial Institutions**

Banks (LAC 10:III.701-703)

In accordance with the authority granted by the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority granted by R.S. 6:290, 6:793, and 6:1310, the Commissioner of the Office of Financial Institutions proposes to repeal LAC 10:III.701-703, entitled "Directors' Examination Requirements," and to adopt a rule providing new directors' examination requirements.

**Title 10**

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,  
INVESTMENT SECURITIES, AND UCC**

**Part III. Banks**

**Chapter 7. Directors' Examination Requirements**

**§701. General Provisions**

A. Introduction. R.S. 6:290, 6:793, and 6:1310, amended by Act Number 530 of the 2001 Legislative Session, requires at least once in each year every state bank, savings bank, and savings and loan association (each hereafter referred to as "institution") to cause its books, records, and accounts to be examined in accordance with a Regulation promulgated by the Commissioner of the Office of Financial Institutions. This examination is called the annual directors' examination and constitutes the institution's annual external audit program. The annual external audit program must be conducted in accordance with the requirements prescribed in this Rule.

B. Board of Directors Responsibilities. The board of directors of an institution is responsible for determining how to best obtain reasonable assurance that the institution's financial statements and regulatory reports are prepared in accordance with appropriate accounting and regulatory standards. In this regard, the board is also responsible for ensuring that its annual external auditing program is appropriate based on the size and complexity of the institution and includes an evaluation of all significant risk. To help ensure the adequacy of internal controls and accuracy of financial reporting, the board of directors is required to establish and elect an audit committee of not less than three members, a majority of which shall be outside directors.

C. **Audit Committee Responsibilities.** The audit committee shall secure and oversee the annual external audit program required by this Rule. The committee shall require that a written report be presented to the board of directors and documented in the board minutes.

D. **Scope.** This Rule does not apply to all institutions regulated by the Office of Financial Institutions.

1. Institutions subject to this Rule include those institutions with less than \$500 million in total assets at the beginning of their fiscal year and have been insured by the Federal Deposit Insurance Corporation (FDIC) for at least three years and are under no contractual or enforcement actions which would require an annual external audit program more stringent than the options contained in Subsection E of this Rule.

2. Institutions not subject to this Rule include the following:

a. those institutions with total assets of \$500 million and greater must comply with federal banking law annual external audit requirements which are more stringent than the annual external audit options provided in this Rule;

b. those institutions that have been insured by the Federal Deposit Insurance Corporation (FDIC) for a period of less than four years are required to obtain annual financial audits performed by an independent public accountant;

c. those institutions that are under some type of enforcement action that requires an annual external audit program more stringent than the policy statement options.

E. **Acceptable Types of Annual External Audit Programs.** The types of annual external audit programs included in the Federal Regulatory Agencies' Interagency Policy Statement on External Auditing Programs of Banks and Savings Associations (Policy Statement) will meet the requirements of this Rule. The Policy Statement provides for the following four types of annual external audit programs:

1. a financial statement audit performed by an independent public accountant;

2. a balance sheet audit performed by an independent public accountant;

3. a report by an independent public accountant on an institution's internal control structure over financial reporting;

4. an agreed-upon procedures or state-required examination report.

F. **Auditor Qualifications**

1. If an institution's audit committee secures any of the types of annual external audit programs listed in Paragraphs E.1-3, the annual external audit program, as well as reports issued, must be performed by independent public accountants that have experience with financial institution accounting and auditing or similar expertise, are knowledgeable about relevant laws and regulations, and comply with the accounting, auditing, and other professional standards referred to in the Policy Statement.

2. If an audit committee selects the type of annual external audit program listed in Paragraph E.4, the annual external audit program, as well as reports issued, must be performed by either independent public accountants or qualified independent auditors. These individuals must have experience with financial institution accounting and auditing or similar expertise, are knowledgeable about relevant laws and regulations, and comply with the accounting, auditing,

and other professional standards established for the professional designations they hold.

G. **Annual Reporting Period.** The annual external audit program shall cover a maximum of a 12-month period of operations. Each subsequent annual report shall have the same ending period as the prior year report for comparison purposes, unless the institution obtains prior written permission from the commissioner to change its reporting date. The preferable time to schedule the performance of an annual external audit program is as of an institution's fiscal year-end. However, a quarter-end that coincides with a regulatory report date provides similar benefits. Therefore, an institution may choose either alternative as an acceptable reporting period for the annual external audit program, provided that same reporting date is used for future filings.

H. **Due Date and Reporting Requirements.** Within 90 days after the end of its fiscal year or quarter-end date that coincides with a regulatory report date for which the institution chooses as its annual reporting date, unless the institution obtains prior written permission from the commissioner to extend this date, each institution shall file with the commissioner two copies of the following:

1. the report, including all opinions and footnotes, if applicable, presented in connection with the type of annual external audit program selected by the audit committee and presented to the board of directors;

2. any management letters issued by the individual or firm that conducted the annual external audit services; and

3. management's response to any management letters issued.

I. **Holding Company Subsidiaries.** If an institution is owned by another entity such as a holding company and the group's consolidated financial statements for the same period are audited, the subsidiary institution is not required to obtain a separate audit of its financial statements provided the audit scope includes substantive testing of the subsidiary's financial records and activities. If the auditing firm considers the subsidiary institution's activities to be immaterial to the financial statements of the consolidated entity, the audit committee of the subsidiary institution shall obtain additional audit coverage that meets one of the four alternative annual external audit programs listed in Subsection E.

J. **Due Date and Reporting Requirements for Consolidated Financial Statements.** If an institution is included in an audited consolidated financial statement and the audit scope for the consolidated statement meets the requirements of Subsection I, within 90 days after the end of its fiscal year or period for which the consolidated financial statements are presented, unless the institution obtains prior written permission from the commissioner to extend this date, the institution shall submit two copies of the following:

1. the consolidated audited financial statements, which shall include the accountant's report, financial statements, and all footnotes;

2. consolidating worksheets for the balance sheet and statement of income that separately break out all entities within the consolidation on a separate basis;

3. any management letters issued by the individual or firm that conducted the annual external audit services; and

4. management's response to any management letters issued.

K. Multiple Institutions Included in a Consolidated Audited Financial Statement. If more than one institution is included in a consolidated audited financial statement, only two copies of the information listed in Subsection J should be submitted, with a cover letter identifying all institutions covered by the reports submitted. This information must be submitted to the commissioner of financial institutions within 90 days after the end of the fiscal year or period for which the consolidated financial statements are presented, unless the institution obtains prior written permission from the commissioner to extend this date.

L. Requirements for a Written Engagement Letter. The audit committee shall obtain a written engagement letter from an independent accountant or individual performing services, before such services are performed. The engagement letter shall include a description of all services to be performed, as well as any additional contractual conditions agreed to between the institution and the provider of the services.

#### M. Access to Examination Workpapers

1. Management shall provide the independent public accountant or other individuals that perform the annual external audit program access to all examination reports and written communication between the institution and the federal agencies or state bank commissioner since the last annual external auditing activity.

2. All independent public accountants and independent internal auditors that perform any of the types of annual external audit programs listed in Subsection E shall agree in the engagement letter to grant all authorized state and federal examiners access to all workpapers and other materials pertaining to the institution prepared in the course of performing the annual external audit program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:290, 6:793 and 6:1310.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 16:17 (January 1990), repealed and repromulgated by the Office of the Governor, Office of Financial Institutions, LR 28:

#### §702. Definitions

*Agreed-upon Procedures/State Required Examination Report*—the fourth type of annual external audit program allowable under the Federal Regulatory Agencies' Interagency Policy Statement on External Auditing Programs of Banks and Savings Associations. If an audit committee chooses this type of annual external audit program, the audit program must be performed in compliance with a policy statement issued by the commissioner.

*Annual Directors' Examination*—an annual examination of an institution's books, records, and accounts that must be:

1. the responsibility of and performed under the direction of the audit committee of the board of directors;
2. one of the types of audit programs permitted in this rule;
3. performed by individuals that meet the requirements stated in this rule;
4. summarized in a written report that is presented to the board of directors; and
5. submitted to the commissioner of the office of financial institutions and the FDIC, along with copies of management letters and management's response, within the time frames established in this rule.

*Federal Regulatory Agencies*—The Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS). These agencies cooperatively issue interagency policy statements.

*Immediate Family Members*—an individual's spouse, minor children and any children, including adult children, residing in the individual's home.

*Independent Internal Auditor*—a qualified internal auditor that is, in fact, independent as defined in the Standards for the Professional Practice of Internal Auditing by the Institute of Internal Auditors and/or the Statements of Principle and Standards for Internal Auditing in the Banking Industry by the Bank Administration Institute.

1. An internal auditor will not be considered independent if, for example:

a. he/she is employed by or accountable to anyone other than the board of directors of the institution or holding company, if applicable;

b. his/her salary and annual bonus are set by anyone other than the board of directors of the institution, or holding company if applicable;

c. his/her duties consist of non-audit responsibilities within the institution or holding company;

d. he/she has any proprietary interest in any partnership, firm or corporation which controls the institution, directly or indirectly, except that he or she may own and/or have a beneficial interest (including any shares of a retirement and/or incentive plan) of up to a maximum of 1 percent of the total outstanding shares of the institution or holding company which employs the internal auditor;

e. he/she has any loan (including any overdrafts, cash items, unposted items, drawing against uncollected funds, or any other such items) to or from the institution or holding company or any officer, director, or principal stockholder thereof. This latter prescription does not apply to the following loans from a financial institution, which are free from classification by bank regulatory authorities, when made under normal lending procedures, terms and requirements:

i. automobile loans and leases collateralized by the automobile;

ii. loans secured by the surrender value of an insurance policy;

iii. loans fully collateralized by cash deposits at the same institution;

iv. credit cards and cash advances on checking accounts with an aggregate unpaid balance of \$5,000 or less, provided that these are obtained from a financial institution under its normal lending procedures, terms, and requirements and are at all times kept current as to all terms;

f. he/she is a member of the immediate family of an officer, director, attorney, or employee of the institution or holding company.

2. The aforementioned examples are not to be construed as all-inclusive criteria in judging the independence of an internal auditor, as other conditions may also contribute to the lack of independence. It is the responsibility of the board of directors to determine if there are any unusual relationships or affiliations, which the internal auditor may have with the institution and to have

any questions as to his or her independence resolved before he or she proceeds with the examination. Any unusual relationships shall be disclosed to the Commissioner of the Office of Financial Institutions.

**Independent Public Accountant** Can accountant who is independent of the institution and registered or licensed to practice, and holds himself or herself out as a public accountant, and who is in good standing under the laws of the state or political subdivision of the United States in which the home office of the institution is located. The independent public accountant must comply with the American Institute of Certified Public Accountants' (AICPA) Code of Professional Conduct and any related guidance adopted by the Independence Standards Board and the agencies. No certified public accountant or public accountant will be recognized as independent if he/she is not independent both in fact and in appearance.

**Outside Director** Members of an institution's board of directors who:

1. are not officers, employees, or principal stockholders (as defined below) of the institution, its subsidiaries, or its affiliates; or
2. are not immediate family members of officers, employees, principal stockholders of the institution, its subsidiaries, or its affiliates; or
3. do not have any material business dealings with the institution, its subsidiaries, or its affiliates.

**Policy Statement** The Interagency Policy Statement on External Auditing Programs of Banks and Savings Associations issued by the Federal Regulatory Agencies.

**Principal Stockholder** Any person that, directly or indirectly or acting through or in concert with one or more persons, owns, controls, or has the authority to vote more than ten percent of any class of voting securities of the financial institution or its parent company. Voting securities owned or controlled by a member of a person's immediate family are considered held by that person.

**Qualified Independent Internal Auditor** Can internal auditor that meets the "independent internal auditor" definition in this subsection who is a duly registered certified public accountant in good standing under the laws of this state, a certified internal auditor, a chartered bank auditor, or an individual that has functioned as an internal auditor in financial institutions for a minimum period of two years that recognizes and adheres to the rules of conduct and personal standards established for the professional designation(s) he or she holds. Any certified public accountant functioning as an internal auditor must adhere to the rules of conduct and standards applicable to the CPA in practice.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 6:290, 6:793 and 6:1310.

**HISTORICAL NOTE:** Promulgated by the Office of Financial Institutions, LR. 28:

**§703. Minimum Standards for Director's Examination**  
Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 6:290, 6:793 and 6:1310.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 16:17 (January 1990), repealed by the Office of the Governor, Office of Financial Institutions, LR 28:

If any provisions or item of this Regulation, or the application thereof, is held invalid, such invalidity shall not

affect other provisions, items, or applications of the Regulation which can be given effect without the invalid provisions, item, or application.

The proposed Rule will have no adverse fiscal or economic impact, nor will it adversely impact family formation, stability, and autonomy.

All interested persons are invited to submit written comments on this proposed Rule no later than 4:30 p.m., January 18, 2002, to Gary L. Newport, General Counsel, Office of Financial Institutions, P.O. Box 94095, Baton Rouge, LA 70804-9095, or by hand delivery to the Office of Financial Institutions, 8660 United Plaza Boulevard, Second Floor, Baton Rouge, LA 70809-7024.

John D. Travis  
Commissioner

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Banks

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

The estimated cost of implementing this rule will be approximately \$600, the cost to publish the notice of intent and the final rule in the *Louisiana Register*.

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

There will be no effect on revenue collections of state or local governmental units.

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

There are no estimated costs to persons or non-governmental groups directly affected by this rule.

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

There will be no effect on competition or employment.

John D. Travis  
Commissioner  
0112#050

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 Claims Filing Deadline (LAC 32:V.405)

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), as amended and reenacted by Act 1178 of 2001, 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 the deadline for filing claims. The reason for this action is to provide a uniform, 12-month deadline from the date of service for filing claims.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective July 1, 2002.

**Title 32**

**EMPLOYEE BENEFITS**

**Part V. Exclusive Provider (EPO) Plan of Benefits**

**Chapter 4. Uniform Provisions**

**§405. When Claims Must be Filed**

A. A claim for benefits must be received by the program within one year from the date on which the medical expenses were incurred.

B. The receipt date for electronically filed claims is the date on which the program receives the claim, not the date on which the claims is submitted to a clearinghouse or to the providers practice management system.

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 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

**Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted by the Office of Group Benefits with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*: The proposed Rules have no known impact on family formation, stability, or autonomy.

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 Thursday, January 24, 2002.

A public hearing will be held from 6 p.m. until 7:30 p.m. on Thursday, January 24, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, LA 70802. Interested persons may appear and present their views at that time.

A. Kip Wall  
Chief Executive Officer

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

**RULE TITLE: EPO Plan of Benefits C Claims  
Filing Deadline**

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

It is estimated by OGB's consulting actuary, Arthur Andersen, that this benefit modification will have no significant cost impact. This Rule will change the claims filing deadline from June 30 of the calendar year following the year the claims were incurred to 12 months after the claims were incurred.

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

Revenue collections of state and local governmental units will not be affected.

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

This Rule will change the claims filing deadline from June 30 of the calendar year following the year the claims were incurred to 12 months after the claims were incurred.

The proposed change would serve to increase the time for filing claims incurred later in the calendar year, and to decrease the time for filing claims incurred early in the calendar year with little or no overall impact. Most claims are filed by providers and are done so timely.

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

Competition and employment will not be affected.

A. Kip Wall  
Chief Executive Officer  
0112#095

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

EPO Plan of Benefits CDeductible, Services Other than  
Physician Office Visits (LAC 32:V.701)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, 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 to implement a deductible for services other than physician office visits. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of OGB and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective July 1, 2002.

**Title 32**

**EMPLOYEE BENEFITS**

**Part V. Exclusive Provider (EPO) Plan of Benefits**

**Chapter 7. Schedule of Benefits C EPO**

**§701 Comprehensive Medical Benefits**

A. Eligible expenses for professional medical services are reimbursed on a fee schedule of maximum allowable charges. All eligible expenses are determined in accordance with plan limitations and exclusions.

**PPO/Non  
Participating  
Provider EPO**

Lifetime Maximum for all Benefits except  
Outpatient Prescription Drug Benefits per  
person ...  
Lifetime Maximum for all Outpatient  
Prescription Drug Benefits per person ...

**1. Deductibles:**

Inpatient deductible per day, maximum of  
5 days per Admission (waived for  
admissions at PPO hospitals) ...  
Emergency room charges for each visit  
unless the Covered Person is hospitalized

immediately following emergency room treatment (prior to and in addition to Calendar Year deductible) ...  
Professional and other eligible expenses, Employees and Dependents of Employees, per person, per Calendar Year ...

Family Unit maximum (3 individual deductibles)  
Professional and other eligible expenses, Retirees and Dependents of Retirees, per person, per Calendar Year ...

Family Unit maximum (3 individual deductibles)

Professional and other eligible expenses, other than physician office visits, per person, per Calendar Year \$300  
Family Unit maximum (3 individual deductibles)

A.2. - G ...

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 25:1823 (October 1999), LR 26:487 (March 2000), LR 27:717, 719 (May 2001), LR 27:1886 amended by the Office of the Governor, Division of Administration, Office of Group Benefits, (November 2001), LR 28:

#### Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted by the Office of Group Benefits with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*: The proposed Rules have no known impact on family formation, stability, or autonomy, except as follows: Effect on family earnings and family budget -Families participating in the OGB's EPO plan will be responsible for a deductible of \$300 per family member for healthcare services other than physician office visits that are not otherwise subject to a co-payment. At present, there is no deductible applicable to these services.

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 Thursday, January 24, 2002.

A public hearing will be held from 6 p.m. until 7:30 p.m. on Thursday, January 24, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, LA 70802. Interested persons may appear and present their views at that time.

A. Kip Wall  
Chief Executive Officer

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

##### RULE TITLE: EPO Plan of Benefits C Deductible, Services Other than Physician Office Visits

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

It is estimated by OGB's consulting actuary, Arthur Andersen, that this benefit modification would save the EPO plan of OGB approximately \$2.6 million in FY 2002/2003, \$2.8 million in FY in 2003/2004, and \$3.1 million in FY

2004/2005. This deductible would apply to physician charges for surgery, medical hospital visits, anesthesia, radiology, pathology, physical therapy, and other fees where an office copayment does not apply.

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

The intent of these benefits modifications is to reduce costs of the OGB and reduce the magnitude of future rate increases.

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

This Rule will result in OGB-EPO members being assessed a \$300 deductible for professional services other than physician office visits incurred by EPO members and dependents in the network. The \$300 deductible will apply to all services that are not subject to an office visit copayment. This could result in an additional \$300 in out of pocket costs for the EPO member.

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

Competition and employment will not be affected.

A. Kip Wall  
Chief Executive Officer  
0112#091

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

#### NOTICE OF INTENT

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

EPO Plan of Benefits C Deductibles,  
Non-EPO Provider Services (LAC 32:V.701)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, 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 the deductible applicable to services rendered for EPO plan participants by non-EPO providers. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of OGB and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective July 1, 2002.

#### Title 32

#### EMPLOYEE BENEFITS

##### Part V. Exclusive Provider (EPO) Plan of Benefits

##### Chapter 7. Schedule of Benefits C EPO

##### §701. Comprehensive Medical Benefits

A. Eligible expenses for professional medical services are reimbursed on a fee schedule of maximum allowable charges. All eligible expenses are determined in accordance with plan limitations and exclusions.

PPO/Non- EPO

**Participating  
Provider**

Lifetime Maximum for all Benefits except  
Outpatient Prescription Drug Benefits per  
person ...

Lifetime Maximum for all Outpatient  
Prescription Drug Benefits per person ...

**1. Deductibles:**

Inpatient deductible per day, maximum of  
5 days per Admission (waived for  
admissions at PPO hospitals) ...

Emergency room charges for each visit  
unless the Covered Person is hospitalized  
immediately following emergency room  
treatment (prior to and in addition to  
Calendar Year deductible) ...

Professional and other eligible expenses,  
Employees and Dependents of Employees,  
per person, per Calendar Year

\$500 0

Family Unit maximum (3 individual  
deductibles)

Professional and other eligible expenses,  
Retirees and Dependents of Retirees, per  
person, per Calendar Year

\$300 0

Family Unit maximum (3 individual  
deductibles)

Professional and other eligible expenses,  
other than physician office visits, per  
person, per Calendar Year ...

Family Unit maximum (3 individual  
deductibles)

**A.2. - G ...**

**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 25:1823 (October 1999), amended LR  
26:487 (March 2000), LR 27:717, 719 (May 2001), amended by the  
Office of the Governor, Division of Administration, Office of  
Group Benefits, LR 27:1886 (November 2001), LR 28:

**Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the  
following Family Impact Statement is submitted by the  
Office of Group Benefits with the Notice of Intent for  
publication in the December 20, 2001 *Louisiana Register*:  
The proposed Rules have no known impact on family  
formation, stability, or autonomy, except as follows: Effect  
on family earnings and family budget - For families of active  
employees participating in the OGB's EPO plan the  
deductible responsibility for healthcare services rendered by  
providers who are not participants in OGB's EPO network  
will increase from \$300 per family member to \$500 per  
family member. The deductible for families of retired  
employees remains \$300.

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 Thursday, January 24, 2002.

A public hearing will be held from 6 p.m. until 7:30 p.m.  
on Thursday, January 24, 2002 at the Louisiana Department  
of Transportation and Development (DOTD) Auditorium,  
1201 Capitol Access Road, Baton Rouge, Louisiana 70802.  
Interested persons may appear and present their views at that  
time.

A. Kip Wall  
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: EPO Plan of Benefits C Deductibles,  
Non-EPO Provider Services**

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

It is estimated by OGB's consulting actuary, Arthur  
Andersen, that this benefit modification would save the EPO  
plan of OGB approximately \$50,000 in FY 2002/2003, \$60,000  
in FY 2003/2004 and \$60,000 in FY 2004/2005. This  
deductible would apply only when EPO members use non-  
network providers. The current deductible for EPO members  
that utilize non-network providers is \$300.

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

This benefit modification is being made to reduce costs of  
the OGB and reduce the magnitude of future rate increases.

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

This Rule will result in OGB-EPO members being assessed  
an increased deductible of \$500 for utilizing the services of  
non-network providers. The current deductible is \$300 and this  
could possibly result in an additional \$200 in costs for  
members of the EPO plan.

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

Competition and employment will not be affected.

A. Kip Wall  
Chief Executive Officer  
0112#090

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

EPO Plan of Benefits C Legal Limitations, Administrative  
Claims Review (LAC 32:V.409 and Chapter 5)

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), as amended and reenacted by Act 1178 of 2001,  
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 review of initial claims  
determinations and the time for initiating legal action against  
OGB. The reason for this action is to modify claims review

procedures in light of statutory changes effected by Act 1178 of 2001.

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 4. Uniform Provisions**

##### **§409. Legal Limitations**

A. A Plan Member must exhaust the Administrative Claims Review procedure before filing a suit for benefits. No action shall be brought to recover benefits under this plan more than one year after the time a claim is required to be filed or more than 30 days after mailing of the notice of decision of the Administrative Claims Committee, whichever is later.

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 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

#### **Chapter 5. Administrative Claims Review**

NOTE: This section establishes and explains the procedures for review of benefit and eligibility decisions by the Program.

##### **§501. Administrative Claims Review**

A. The Covered Person may request from the Program a review of any claim for benefits or eligibility. The written request must include the name of the Covered Person, member number, the name of the patient, the name of the provider, dates of service and should clearly state the reasons for the appeal.

B. The request for review must be directed to Attention: Administrative Claims Review within 90 days after the date of the notification of denial of benefits, denial of eligibility, or denial after review by the utilization review organization or prescription benefits manager

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 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

##### **§503. Review and Appeal Prerequisite to Legal Action**

The Covered Person must exhaust the Administrative Claims Review procedure before filing a suit for benefits. Unless a request for review is made, the initial determination becomes final, and no legal action may be brought to attempt to establish eligibility or to recover benefits allegedly payable under the Program.

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 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

##### **§505. Administrative Claims Committee**

The CEO will appoint an Administrative Claims Committee (the committee) to consider all such requests for review and to ascertain whether the initial determination was made in accordance with the Plan Document.

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 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

##### **§507. Administrative Claims Review Procedure and Decisions**

A. Review by the Committee shall be based upon a documentary record which includes:

1. All information in the possession of the Program relevant to the issue presented for review;
2. All information submitted by the Covered Person in connection with the request for review; and
3. Any and all other information obtained by the Committee in the course of its review.

B. Upon completion of the review the Committee will render its decision which will be based on the Plan Document and the information included in the record. The decision will contain a statement of reasons for the decision. A copy of the decision will be mailed to the Covered Person and any representative thereof.

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 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

##### **§509. Procedure for Hearing Appeals**

Repealed.

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 25:1818 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

##### **§511. Subpoena of Witness; Production of Documents**

Repealed.

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 25:1818 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

##### **§513. Appeals Decisions**

Repealed.

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 25:1818 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

##### **§515. Rehearing**

Repealed.

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 25:1818 (October 1999), repealed by the

Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

**§517. Judicial Review**

Repealed.

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 25:1818 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

**Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted by the Office of Group Benefits with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*: The proposed Rules have no known impact on family formation, stability, or autonomy.

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 Thursday, January 24, 2002.

A public hearing will be held from 6:00 p.m. until 7:30 p.m. on Thursday, January 24, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, LA 70802. Interested persons may appear and present their views at that time.

A. Kip Wall  
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: EPO Plan of Benefits C Legal  
Limitations, Administrative Claims Review**

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

This rule change is the result of statutory changes that were the result of Act 1178 of the 2001 Regular Session of the Louisiana Legislature. This rule establishes the appointment of the Administrative Claims Committee and the procedure for members to file for a review of eligibility decisions of the program. There should be no impact on costs as a result of this rule change.

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

Revenue collections of state and local governmental units will not be affected.

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

This rule will establish the procedure for filing appeals of claims eligibility decisions made by the Office of Group Benefits. This rule establishes an Administrative Claims Committee to be appointed by the CEO of the program and all appeal decisions will be reviewed and determined by this committee.

A covered person may request a review of any claim for benefits or eligibility. The written request must include the name of the covered person, member number, name of patient, name of provider, dates of service and should clearly state the reason for the appeal. All appeals must be reviewed by the Administrative Claims Committee within 90 days.

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

Competition and employment will not be affected.

A. Kip Wall  
Chief Executive Officer  
0112#094

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

EPO Plan of Benefits CSleep Studies (LAC 32:V.301)

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), as amended and reenacted by Act 1178 of 2001, 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 sleep studies. The reason for this action is to enhance member access to accredited facilities for sleep studies.

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.1. - 30. ...

31. testing of sleep disorders only when the tests are performed at a sleep study facility accredited by the American Sleep Disorders Association or located within a healthcare facility accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). No benefits are payable for surgical treatment of sleep disorders (including LAUP) except following demonstrated failure of non-surgical treatment and upon approval by the program;

32. ...

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 Administrator, Office of Group Benefits, LR 28:

**Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted by the Office of Group Benefits with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*: The proposed Rules have no known impact on family formation, stability, or autonomy.

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 Thursday, January 24, 2002.

A public hearing will be held from 6 p.m. until 7:30 p.m. on Thursday, January 24, 2002, at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, Louisiana 70802. Interested persons may appear and present their views at that time.

A. Kip Wall  
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: EPO Plan of Benefits CSleep Studies**

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

It is estimated by OGB's consulting actuary, Arthur Andersen, that this benefit modification will have no significant cost impact. This Rule should only result in a change in the distribution of sleep studies between different facilities, with no overall increase or decrease in the utilization of such studies.

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

Revenue collections of state and local governmental units will not be affected.

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

This Rule will change the criteria for covering "sleep studies" so as to include facilities that are accredited by the JCAHO, as well as those accredited by the American Sleep Disorders Association. There is currently 1 covered facility, which could be expanded to a maximum of 10 facilities if all JCAHO units were to participate in the EPO plan. During FY 00/01, \$163,000 was paid benefits for sleep studies for all members.

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

Competition and employment could possibly be affected if all sleep study participants were to migrate from the current approved facility to any newly approved JCAHO facilities.

A. Kip Wall  
Chief Executive Officer  
0112#092

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

EPO Plan of Benefits CStop Loss Threshold,  
Mental Health Benefits (LAC 32:V.703)

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, as amended and reenacted by Act 1178 of 2001, 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 the stop loss threshold for mental health and substance abuse (MHSA) treatment services. The reason for this action is to adjust the MHSA stop loss threshold to the same as the stop loss threshold for other treatment services.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective July 1, 2002.

**Title 32**

**EMPLOYEE BENEFITS**

**Part III. Exclusive Provider (EPO) Plan of Benefits**

**Chapter 7. Schedule of Benefits CEPO**

**§703. Mental Health And Substance Abuse**

(Requires prior approval of services)

- A. ...
- B. Benefits

80% of the first \$10,000 of eligible expenses  
100 % of eligible expenses over \$10,000 until the Lifetime Maximum for all Plan benefits is reached

\*\*\*

**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 25:1824 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

**Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted by the Office of Group Benefits with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*: The proposed Rules have no known impact on family formation, stability, or autonomy, except as follows: Effect on family earnings and family budget - For families participating in the OGB's EPO plan, the maximum co-insurance liability per family member for mental health and substance abuse treatment services will increase from \$1,000 to \$2,000.

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 Thursday, January 24, 2002.

A public hearing will be held from 6 p.m. until 7:30 p.m. on Thursday, January 24, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, LA 70802. Interested persons may appear and present their views at that time.

A. Kip Wall  
Chief Executive Officer

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

**RULE TITLE: EPO Plan of Benefits CStop Loss  
Threshold, Mental Health Benefits**

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

It is estimated by OGB's consulting actuary, Arthur Andersen, that this benefit modification will save the EPO plan of OGB approximately \$70,000 for FY 2002/2003, \$80,000 in *Louisiana Register Vol. 27, No. 12 December 20, 2001*

FY 2003/2004, and \$80,000 in FY 2004/2005. It is estimated these savings will increase at an annual rate of 9 percent for the following years. The trend rate for MHSA services is based on the current capitation rates that are in place with our provider.

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

The intent of these benefit modifications is to reduce costs of the OGB and reduce the magnitude of future rate increases.

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

This Rule change will require that any person that is covered in the EPO plan that receives Mental Health and Substance Abuse treatment to have a coinsurance share on \$10,000 worth of benefits rather than the current \$5,000. This has the effect of bringing the treatment of behavioral health benefits in line with the treatment of non-behavioral health benefits under both plans. Members currently pay a 20 percent copayment on the first \$5,000 in charges. This would increase to a 20 percent copayment on the first \$10,000 in charges for a net increase of \$1,000 on the member.

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

Competition and employment will not be affected.

A. Kip Wall  
Chief Executive Officer  
0112#093

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**  
**Office of the Governor**  
**Division of Administration**  
**Office of Group Benefits**

**EPO Plan of Benefits C Stop Loss Threshold, Non-EPO  
Provider Services (LAC 32:V.323 and 701)**

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, 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 the stop loss threshold applicable to services rendered to EPO plan participants by non-EPO providers. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of OGB and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective July 1, 2002.

**Title 32**

**EMPLOYEE BENEFITS**

**Part V. Exclusive Provider (EPO) Plan of Benefits**

**Chapter 3. Medical Benefits**

**§323. Preferred Provider Program**

A. ...

B. If a covered person obtains medical services or hospital services from an eligible provider who has agreed to

provide the services at a mutually agreed upon discount from the maximum medical fee schedule or at a per diem or discounted rate from a hospital, the program will pay, following satisfaction of all applicable deductibles, 70 percent of the first \$10,000 of eligible expenses and 100 percent of eligible expenses, except prescription drugs, in excess of \$10,000 for the remainder of the calendar year subject to the maximum amount as specified in the schedule of benefits.

C. ...

**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 25:1815 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

**Chapter 7. Schedule of Benefits—EPO**  
**§701. Comprehensive Medical Benefits**

A. Eligible expenses for professional medical services are reimbursed on a fee schedule of maximum allowable charges. All eligible expenses are determined in accordance with plan limitations and exclusions.

	<b>PPO/Non Participating Provider</b>	<b>EPO</b>
Lifetime Maximum for all Benefits except Outpatient Prescription Drug Benefits per person ...		
Lifetime Maximum for all Outpatient Prescription Drug Benefits per person ...		
1. ...		
2. Percentage Payable after Satisfaction of Applicable Deductibles		
Eligible expenses incurred at an EPO ...		
Eligible expenses incurred at a PPO ...		
Eligible expenses incurred at a non-PPO/non-EPO when one is available in the region ...		
Eligible expenses incurred at a non-PPO/non-EPO when not available at an EPO/PPO or out of state ...		
Eligible expenses incurred when Medicare or Other Group Health plan is primary, and after Medicare reduction ...		
Eligible expenses in excess of \$10,000 per Calendar Year per person	100%	N/A

A.3. - G ...

**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 25:1823 (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 27:1886 (November 2001), LR 28:

### Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted by the Office of Group Benefits with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*: The proposed Rules have no known impact on family formation, stability, or autonomy, except as follows: Effect on family earnings and family budget - For families participating in the OGB's EPO plan, the maximum coinsurance liability per family member for healthcare services rendered by providers who are not participants in OGB's EPO network will increase from \$2,500 to \$5,000.

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 Thursday, January 24, 2002.

A public hearing will be held from 6 p.m. until 7:30 p.m. on Thursday, January 24, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, LA 70802. Interested persons may appear and present their views at that time.

A. Kip Wall  
Chief Executive Officer

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: EPO Plan of Benefits C Stop Loss Threshold, Non-EPO Provider Services

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

It is estimated by OGB's consulting actuary, Arthur Andersen, that this benefit modification would save the EPO plan of OGB approximately \$650,000 in FY 2002/2003, \$710,000 in FY 2003/2004, and \$770,000 in FY 2004/2005. This stop loss would apply to all benefits that are paid to non-EPO providers. There is currently a \$5,000 stop loss in place for the EPO.

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

The intent of these benefits modifications is to reduce costs of the OGB and reduce the magnitude of future rate increases.

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

This Rule will result in OGB-EPO members having to pay a coinsurance amount on the first \$10,000 of eligible non-EPO benefits that are billed during any plan year. The current stop loss for non-EPO charges is \$5,000 per plan year. Currently members of the EPO that receive services at a non-EPO are responsible for 30% of the first \$5,000 in charges for an out of pocket cost of \$1,500. This will be raised to 30% of the first \$10,000 in charges for a maximum out of pocket cost of \$3,000.

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

Competition and employment will not be affected.

A. Kip Wall  
Chief Executive Officer  
0112#089

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

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

#### PPO Plan of Benefits C Claims Filing Deadline (LAC 32:III.405)

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), as amended and reenacted by Act 1178 of 2001, 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 relative to the deadline for filing claims. The reason for this action is to provide a uniform, 12-month deadline from the date of service for filing claims.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective July 1, 2002:

#### Title 32

#### EMPLOYEE BENEFITS

#### Part III. Preferred Provider (PPO) Plan of Benefits

#### Chapter 4. Uniform Provisions

#### §405. When Claims Must be Filed

A. A claim for benefits must be received by the program within one year from the date on which the medical expenses were incurred.

B. The receipt date for electronically filed claims is the date on which the program receives the claim, not the date on which the claims is submitted to a clearinghouse or to the providers practice management system.

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 25:1836 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

#### Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted by the Office of Group Benefits with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*: The proposed Rules have no known impact on family formation, stability, or autonomy.

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 Thursday, January 24, 2002.

A public hearing will be held from 6 p.m. until 7:30 p.m. on Thursday, January 24, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, LA 70802. Interested persons may appear and present their views at that time.

A. Kip Wall  
Chief Executive Officer

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

**RULE TITLE: PPO Plan of Benefits C Claims Filing  
Deadline**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
It is estimated by OGB's consulting actuary, Arthur Andersen, that this benefit modification will have no significant cost impact. This Rule will change the claims filing deadline from June 30 of the calendar year following the year the claims were incurred to 12 months after the claims were incurred.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Revenue collections of state and local governmental units will not be affected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
This Rule will change the claims filing deadline from June 30 of the calendar year following the year the claims were incurred to 12 months after the claims were incurred.  
The proposed change would serve to increase the time for filing claims incurred later in the calendar year, and to decrease the time for filing claims incurred early in the calendar year with little or no overall impact. Most claims are filed by providers and are done so timely.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
Competition and employment will not be affected.

A. Kip Wall  
Chief Executive Officer  
0112#087

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

PPO Plan of Benefits C Legal Limitations,  
Administrative Claims Review  
(LAC 32:III.409, 501, 503, 505, 507; 509-517)

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), as amended and reenacted by Act 1178 of 2001, 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 relative to review of initial claims determinations and the time for initiating legal action against OGB. The reason for this action is to modify claims review procedures in light of statutory changes effected by Act 1178 of 2001.

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

**Title 32**

**EMPLOYEE BENEFITS**

**Part III. Exclusive Provider (PPO) Plan of Benefits**

**Chapter 4. Uniform Provisions**

**§409. Legal Limitations**

A. A Plan Member must exhaust the Administrative Claims Review procedure before filing a suit for benefits. No action shall be brought to recover benefits under this plan more than one year after the time a claim is required to be filed or more than thirty days after mailing of the notice of decision of the Administrative Claims Committee, whichever is later.

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 25:1836 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

**Chapter 5. Administrative Claims Review**

NOTE: This section establishes and explains the procedures for review of benefit and eligibility decisions by the Program.

**§501. Administrative Claims Review**

A. The Covered Person may request from the Program a review of any claim for benefits or eligibility. The written request must include the name of the Covered Person, member number, the name of the patient, the name of the provider, dates of service and should clearly state the reasons for the appeal.

B. The request for review must be directed to Attention: Administrative Claims Review, within 90 days after the date of the notification of denial of benefits, denial of eligibility, or denial after review by the utilization review organization or prescription benefits manager

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 25:1838 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

**§503. Review and Appeal Prerequisite to Legal Action**

A. The Covered Person must exhaust the Administrative Claims Review procedure before filing a suit for benefits. Unless a request for review is made, the initial determination becomes final, and no legal action may be brought to attempt to establish eligibility or to recover benefits allegedly payable under the Program.

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 25:1838 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

**§505. Administrative Claims Committee**

A. The CEO will appoint an Administrative Claims Committee (the Committee) to consider all such requests for review and to ascertain whether the initial determination was made in accordance with the Plan Document.

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 25:1838 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

#### **§507. Administrative Claims Review Procedure and Decisions**

A. Review by the Committee shall be based upon a documentary record which includes:

1. all information in the possession of the Program relevant to the issue presented for review;
2. all information submitted by the Covered Person in connection with the request for review; and
3. any and all other information obtained by the Committee in the course of its review.

B. Upon completion of the review the Committee will render its decision which will be based on the Plan Document and the information included in the record. The decision will contain a statement of reasons for the decision. A copy of the decision will be mailed to the Covered Person and any representative thereof.

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 25:1838 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

#### **§509. Procedure for Hearing Appeals**

Repealed.

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 25:1838 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

#### **§511. Subpoena of Witnesses; Production of Documents**

Repealed.

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 25:1838 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

#### **§513. Appeals Decisions**

Repealed.

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 25:1838 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

#### **§515. Rehearing**

Repealed.

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 25:1838 (October 1999), repealed by

the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

#### **§517. Judicial Review**

Repealed.

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 25:1838 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

#### **Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted by the Office of Group Benefits with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*: The proposed Rules have no known impact on family formation, stability, or autonomy.

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 Thursday, January 24, 2002.

A public hearing will be held from 6 p.m. until 7:30 p.m. on Thursday, January 24, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, LA 70802. Interested persons may appear and present their views at that time.

A. Kip Wall  
Chief Executive Officer

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: PPO Plan of Benefits C Legal Limitations, Administrative Claims Review**

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

This Rule is the result of statutory changes that were the result of Act 1178 of the 2001 Regular Session of the Louisiana Legislature. This Rule establishes the appointment of the Administrative Claims Committee and the procedure for members to file for a review of eligibility decisions of the program. There should be no impact on costs as a result of this rule change.

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

Revenue collections of state and local governmental units will not be affected.

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

This Rule will establish the procedure for filing appeals of claims eligibility decisions made by the Office of Group Benefits. This Rule establishes an Administrative Claims Committee to be appointed by the CEO of the program and appeal decisions will be reviewed and determined by this committee.

A covered person may request a review of any claim for benefits or eligibility. The written request must include the name of the covered person, member number, name of patient, name of provider, dates of service and should clearly state the reason for the appeal. All appeals must be reviewed by the Administrative Claims Committee within 90 days.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

Competition and employment will not be affected.

A. Kip Wall  
Chief Executive Officer  
0112#088

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

PPO Plan of Benefits CSleep Studies (LAC 32:III.301)

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), as amended and reenacted by Act 1178 of 2001, 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 relative to sleep studies. The reason for this action is to enhance member access to accredited facilities for sleep studies.

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.1. - 30. ...

31. testing of sleep disorders only when the tests are performed at a sleep study facility accredited by the American Sleep Disorders Association or located within a healthcare facility accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). No benefits are payable for surgical treatment of sleep disorders (including LAUP) except following demonstrated failure of non-surgical treatment and upon approval by the program;

32. ...

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:

**Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted by the Office of Group Benefits with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*: The proposed Rules have no known impact on family formation, stability, or autonomy.

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 Thursday, January 24, 2002.

A public hearing will be held from 6:00 p.m. until 7:30 p.m. on Thursday, January 24, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, LA 70802. Interested persons may appear and present their views at that time.

A. Kip Wall  
Chief Executive Officer

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

**RULE TITLE: PPO Plan of Benefits CSleep Studies**

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

It is estimated by OGB's consulting actuary, Arthur Andersen, that this benefit modification will have no significant cost impact. This rule should only result in a change in the distribution of sleep studies between different facilities, with no overall increase or decrease in the utilization of such studies.

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

Revenue collections of state or local governmental units will not be affected.

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

This rule will change the criteria for covering "sleep studies" so as to include facilities that are accredited by the JCAHO, as well as those accredited by the American Sleep Disorders Association. There are currently 8 covered facilities, which could be expanded to a maximum of 17 facilities if all JCAHO facilities were to participate in the PPO plan. During FY 00/01, \$163,000 was paid benefits for sleep studies for all members.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment could possibly be affected if all sleep study participant participants were to migrate from the current 8 approved facilities to any newly approved JCAHO facilities.

A. Kip Wall  
Chief Executive Officer  
0112#097

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

PPO Plan of Benefits  
Stop Loss Threshold CMental Health Benefits  
(LAC 32:III.703)

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), as amended and reenacted by Act 1178 of 2001, 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 relative to the stop loss threshold for mental health and substance abuse (MHSA) treatment services. The reason for this action is to adjust the MHSA stop loss threshold to the same as the stop loss threshold for other treatment services.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective July 1, 2002.

#### **Title 32**

#### **EMPLOYEE BENEFITS**

#### **Part III. Preferred Provider (PPO) Plan of Benefits**

#### **Chapter 7. Schedule of Benefits C PPO**

#### **§703. Mental Health And Substance Abuse**

(Requires prior approval of services)

A. ...

B. Benefits

80% of the first \$10,000 of eligible expenses

100 % of eligible expenses over \$10,000 until the Lifetime

Maximum for all Plan benefits is reached

\*\*\*

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 Plan, LR 25:1844 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

#### **Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted by the Office of Group Benefits with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*: The proposed Rules have no known impact on family formation, stability, or autonomy, except as follows: Effect on family earnings and family budget, for families participating in the OGB's PPO plan, the maximum co-insurance liability per family member for mental health and substance abuse treatment services will increase from \$1,000 to \$2,000.

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 Thursday, January 24, 2002.

A public hearing will be held from 6:00 p.m. until 7:30 p.m. on Thursday, January 24, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, Louisiana 70802. Interested persons may appear and present their views at that time.

A. Kip Wall  
Chief Executive Officer

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: PPO Plan of Benefits Stop Loss Threshold C Mental Health Benefits**

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

It is estimated by OGB's consulting actuary, Arthur Andersen, that this benefit modification will save the PPO plan

of OGB approximately \$170,000 for FY 2002/2003, \$190,000 for 2003/2004 and \$200,000 for FY 2004/2005. It is estimated these savings will increase at an annual rate of 9% for the following years. The trend rate for MHSA services is based on the current capitation rates that are in place with our provider.

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

The intent of these benefit modifications is to reduce costs of the OGB and reduce the magnitude of future rate increases.

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

This rule change will require that any person who is covered in the PPO plan who receives Mental Health and Substance Abuse treatment to have a coinsurance share on \$10,000 worth of benefits rather than the current \$5,000. This has the effect of bringing the treatment of behavioral health benefits in line with the treatment of non-behavioral health benefits under both plans. Members currently pay a 20 percent copayment on the first \$5,000 in charges. This would increase to a 20 percent copayment on the first \$10,000 in charges for a net increase of \$1,000 on the member.

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

Competition and employment will not be affected.

A. Kip Wall  
Chief Executive Officer  
0112#096

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

#### **NOTICE OF INTENT**

#### **Office of the Governor Division of Administration Racing Commission**

Claiming Rule (LAC 45:XI.9915 and 9939)

Editor's Note: The full text of this Notice of Intent is being repromulgated to correct a reference. This Notice of Intent ran in the October 2001 issue on page 1942. The text showed reference to the Emergency Rule that was published in the September 2001 issue on pages 1497-1499.

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 35:XI.9915 "Number of Horses Claimed Per Race" and LAC 35:XI.9939 "Number of Claims on Stable or Trainer" because it is no longer desirable nor necessary to limit one claim per claiming race; it is more beneficial to all parties to increase that limit to two. This is consistent with other racing jurisdictions.

This proposed rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

#### **Title 35**

#### **HORSE RACING Part XIII. Wagering**

#### **Chapter 116. Pick Four**

#### **§11601. Description; Selection; Principle**

A. The pick four is a form of pari-mutuel wagering. Bettors select the first horse in each of four consecutive races designated as the pick four by the permit holder. The principle of a pick four is in effect a contract by the purchaser of a pick four ticket to select the winners of each of the four races designated as the pick four. The sale of pick four tickets other than from pari-mutuel machines shall be deemed illegal and is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

#### **§11603. Wagering Pool**

A. The pick four pool shall be held entirely separate from all other pools and is no part of a daily double, exacta, trifecta, quinella or any other wagering pool. The pick four pool is a pool wherein the bettor is required to select four consecutive winning horses and is not a parlay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

#### **§11605. Denominations**

A. Pick four tickets shall be sold in not less than \$1 denominations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

#### **§11607. Approval; Notation**

A. Races in which pick four pools are conducted shall be approved by the Commission and clearly designated in the program, and pick four tickets will be clearly marked as pick four tickets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

#### **§11609. Procedure**

A. After the wagering closes for the first race of the four designated pick four races, the commission will be deducted from the pari-mutuel pool in accordance with Louisiana law. The remaining net pool, subject to distribution among winning ticket holders shall be distributed among the holders of tickets which correctly designate the winner in all four races comprising the pick four and the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

1. In the event no ticket is sold combining winners of the four races comprising the pick four, the holders of tickets which include the winners of any three of the four races shall be deemed winning ticket holders, and the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

2. In the event no ticket is sold combining the winners of three of the four races comprising the pick four, the holders of tickets which include the winners of any two of the four races shall be deemed winning ticket holders, and the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

3. In the event no ticket is sold combining the winners of two of the four races comprising the pick four, the holders of tickets which include the winner(s) of any one of the four races shall be deemed winning ticket holders, and the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

#### **§11611. No Winning Ticket**

A. In the event no winning ticket is sold that would require the distribution of the pick four pool as mentioned in §11609, the association shall make a complete refund of the pick four pool.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

#### **§11613. Cancelled Races**

A. If for any reason one or more of the races comprising the pick four is/are cancelled or declared "no race," the net pool shall be distributed as provided in §11609.

B. In the event the pick four pool is opened and wagers accepted, and all four races comprising the pick four are cancelled for any reason, the association shall make a complete refund of the pick four pool.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

#### **§11615. Dead Heats**

A. In the event of a dead heat for win between two or more horses in any pick four race, all such horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

#### **§11617. Closing Time; Disclosure**

A. No pari-mutuel ticket for the pick four pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the four races comprising the pick four except for such refunds on pick four tickets as required by this regulation, and no person shall disclose the number of tickets sold in the pick four pool or the number or amount of tickets selecting winners of pick four races until such time as the stewards have determined the last race comprising the pick four to be official. At the conclusion of the third of the four races comprising the pick four, the association may display potential distributions to ticket holders depending upon the outcome of the fourth race of the pick four.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

#### **§11619. Entry or Field**

A. Those horses constituting an entry or a field as defined within the rules of racing shall race in any pick four race as a single wagering interest for the purpose of the pick four pari-mutuel pool calculations and payouts to the public. A scratch after wagering has begun of any part of an entry or field selection in such race shall have no effect with respect to the status of such entry and/or field as a viable wagering interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

**§11621. Scratches and Non-Starters**

A. At anytime after wagering begins on the pick four pool should a horse, entire betting entry or field be scratched, excused or declared a non-starter in any pick four race, no further tickets selecting such horse, betting entry or field shall be issued, and wagers upon such horse, betting entry or field, for purposes of the pick four pool shall be deemed wagers upon the horse, betting entry or field upon which the most money has been wagered in the win pool at the close of win pool betting for such race. In the event of a money tie in the win pool, the tied horse, betting entry or field with the lowest running number, as designated by the official racing program, shall be designated as the favorite for substitution purposes. For the purpose of this Section, when horses are prevented from starting by any malfunction of the starting gate itself they shall be considered as having been excused by the stewards. After close of betting, there shall be no refund, except as provided in §11611 or §11613.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

**§11623. Display**

A. These rules shall be prominently displayed in the betting area of the association conducting the pick four.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

**§11625. Unforeseen Circumstances**

A. Should circumstances occur which are not foreseen in these rules, questions arising thereby shall be resolved by the association and/or commission in accordance with general pari-mutuel practices. Decisions regarding distribution of the pick four pools shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

The domicile office of the Louisiana State Racing Commission is open from 8:30 a.m. to 5 p.m. and interested parties may contact Charles A. Gardiner III, executive director, or C.A. Rieger, assistant director, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through December 10, 2001, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Claiming Rule**

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

There are no anticipated costs or savings to state or local governmental units associated with these rules, other than those one-time costs directly associated with the publication of these rules.

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

There is estimated to be a minimal positive effect on revenue collections of state and local governmental units associated with this proposed rule.

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

This action benefits horse owners by allowing them to claim up to two horses per race instead of only one.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule.

Charles A. Gardiner, III  
Executive Director  
0112#119

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Office of Women's Services**

Domestic Violence Projects (LAC 4:VII.1747 and 1749)

In accordance with the Administrative Procedure Act R.S. 49:953(B), the Executive Director of the Governor's Office of Women's Services (OWS) is exercising the emergency provisions of the Administrative Procedure Act in adopting the following Rules for the implementation of domestic violence projects to further the goals of and the intentions of the federal Temporary Assistance to Needy Families Block Grant funds. This Emergency Rule facilitates expenditures of Temporary Assistance to Needy Families (TANF) funds authorized by Act 12 of the 2001 Regular Session of the Louisiana Legislature for support and implementation of the following domestic violence projects.

1. Outreach services for rural victims to include advocacy, crisis intervention, legal advocacy and specific services for children. This is a rural community-organizing project with the goal to establish self-sustaining services.

2. Services for children in family violence shelters/programs to include playgroups, parenting groups, individual intakes, evaluations and safety plans.

3. Training on Domestic Violence for DSS Employees. OFS and OCS employees will be provided with the education, methods and techniques needed to make safe, appropriate assessment of domestic violence victims.

4. Law enforcement training on domestic violence. Sheriffs, Police, and State Police officers will be trained as first responders in family violence situations.

The full text of this Notice of Intent may be viewed in the Emergency Rule Section of this issue of the *Louisiana Register*.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Domestic Violence Projects**

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

The total cost to state government is \$4,000,000 in FY 01-02 as a result of the TANF (Temporary Assistance for Needy

Families) funding received from DSS for Domestic Violence. This funding is anticipated to be available only for FY 01-02.

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

There will be no effect on state and local government revenue collections.

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

Programs are designed to help domestic violence survivors and their children with immediate needs for safe and secure shelter, counseling, outside resources, etc. Women and children gain from services and by having opportunities for increasing personal growth and developing skills necessary for self-sufficiency and independence in an environment free from abuse.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Effect on competition and employment is not applicable for this project.

Vera Clay  
Executive  
0112#081

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Real Estate Commission**

Advertising (LAC 46:LXVII.2501 and 2515)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Real Estate Commission has initiated procedures to amend LAC 46:LXVII.Chapter 25. The amendment establishes standard information to be included in all advertising by a real estate licensee and requires all trade names used by licensee, registrants, or certificate holders in advertising to be a clearly distinguished entity from that used by other licensees, registrants, or certificate holders.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXVII. Real Estate**

**Chapter 25. Advertising**

**§2501. Advertisements**

A. All advertising by any licensee shall include the phone number and the identity of the listing broker or firm through the use of the identical name under which the listing broker or firm is licensed or a registered trade name that is a clearly identifiable entity which will distinguish the listing broker or firm from other licensees, registrants, or certificate holders.

B. Any trade name used by a licensee, registrant or certificate holder in advertising shall be a trade name that is a clearly identifiable entity that will distinguish itself from other licensees, registrants or certificate holders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

**§2515. Internet Advertising**

A. - C.1 ...

2. the name of the licensed broker or agency listed on the license of the salesperson or associate broker;

3. the city, state and country in which the broker's main office is located;

C.4.- D.1. ...

2. the name of the licensed broker or agency listed on the license of the salesperson or associate broker;

3. the city, state and country in which the broker's main office is located;

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:43 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

Interested parties are invited to submit written comments on the proposed regulations through January 20, 2002, at 4:30 p.m., to Stephanie Boudreaux, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898-4785 or to 9071 Interline Avenue, Baton Rouge, LA 70809.

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*:

The proposed Rules have no known impact on family formation, stability, or autonomy.

Julius C. Willie  
Executive Director

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

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

There are no estimated implementation costs or savings associated with the proposed Rules.

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

There is no estimated effect on revenue collections. Revenue collections will still be determined by the number of applicants and the time frame within which their licenses, certificate, or registration is obtained and/or renewed.

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

Real estate licensees, registrants, and certificate holders may be required to modify current advertising; however, there is no way to estimate cost in that the size of the firm and the extent to which the advertising is used will vary. The proposed language is designed to benefit both the general public and the real estate industry by providing the ability to better determine for whom and/or with whom one is working in a real estate transaction.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is possible that the proposed language could impact competition among licensees as it relates to the manner in which they currently advertise; however, there is no way in which to determine this.. There is no estimated effect on employment.

Julius C. Willie  
Executive Director  
0112#061

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Real Estate Commission**

Branch Office (LAC 46:LXVII.2301)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Real Estate Commission has initiated procedures to amend LAC 46:LXVII.Chapter 23. The amendment requires all branch offices to be under the direct supervision of a sponsoring, qualifying, or affiliated broker and establish the duties and penalties associated therein.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LLVII. Real Estate**

**Chapter 23. Branch Offices**

**§2301. Branch Office**

A. ...

B. Every branch office shall be under the direct supervision of a sponsoring, qualifying, or affiliated broker who shall be designated in writing as the branch office manager. A copy of the designation shall be submitted to the commission within five days following the date of the original designation or any changes thereto.

C. While supervising a branch office, a sponsoring, qualifying, or affiliated broker has all the duties of and is subject to the penalties applicable to a sponsoring broker. This does not relieve the sponsoring broker of the ultimate responsibility of the branch office operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

Interested parties are invited to submit written comments on the proposed regulations through January 20, 2002, at 4:30 p.m., to Stephanie Boudreaux, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898-4785 or to 9071 Interline Avenue, Baton Rouge, LA 70809.

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*:

The proposed Rules have no known impact on family formation, stability, or autonomy.

Julius C. Willie  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Branch Office**

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

There are no estimated implementation costs or savings with the proposed Rules.

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

There is no estimated effect on revenue collections. Revenue collections will still be determined by the number of applicants and the time frame within which their license, certificate, or registration is obtained and/or renewed.

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

The proposed language requires a real estate branch office to be under the direct supervision of a licensed broker. There are no estimated costs and/or economic benefits associated with this Rule in that the sponsoring broker may appoint him/herself as branch office manager.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no significant net effect on competition and employment.

Julius C. Willie  
Executive Director  
0112#059

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Real Estate Commission**

Change of Licensing Status (LAC 46:LXVII.1507)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Real Estate Commission has initiated procedures to amend LAC 46:LXVII.Chapter 15. The amendment defines the terms and conditions under which the post licensing education requirement must be completed by inactive licensees in order to transfer a license to active status.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXVII. Real Estate**

**Chapter 15. Transfers and Terminations**

**§1507. Change of Licensing Status**

A. - B. ...

C. Any licensee transferring to inactive status without fulfilling his/her post licensing requirement will be required to complete the 30-hour post licensing course prior to transferring his/her license to active status.

D. The 30-hour post licensing course can be used to satisfy the continuing education or a portion of the continuing education required for transfer to active status as follows:

1. one to three years of inactive status C30 hours of post licensing in lieu of the required 20 hours of continuing education. Any licensee remaining in the inactive status for more than one year will also be required to complete a four-hour continuing education course covering the Louisiana Real Estate License Law and Commission Rules and Regulations within one-year prior to the date of the transfer to active status;

2. three to five years of inactive status C30 hours of post licensing and at least 10 hours of continuing education that includes a four-hour course covering the Louisiana Real Estate License Law and Commission Rules and Regulations. This four-hour course must be completed within one year prior to the date of the transfer to active status;

3. more than five years of inactive status C30 hours of post licensing and at least 50 hours of continuing education that includes a four-hour course covering the Louisiana Real Estate License Law and Commission Rules and Regulations. This four-hour course must be completed within one year prior to the date of the transfer to active status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:41, (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

Interested parties are invited to submit written comments on the proposed regulations through January 20, 2002 at 4:30 p.m., to Stephanie Boudreaux, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898-4785 or to 9071 Interline Avenue, Baton Rouge, LA 70809.

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*:

The proposed rules have no known impact on family formation, stability, or autonomy.

Julius C. Willie  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Change of Licensing Status

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

There are no estimated implementation costs or savings associated with this Rule.

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

There is no estimated effect on revenue collections. Revenue collections will still be determined by the number of applicants and the time frame within which their license, certificate, or registration is obtained and/or renewed.

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

There are no estimated costs and/or economic benefits associated with this Rule. The proposed language serves as an extension of the education requirements established by R.S. 37:1437.

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

There is no significant net effect on competition and employment.

Julius C. Willie  
Executive Director  
0112#058

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Office of the Governor Real Estate Commission

Franchise Operations (LAC 46:LXVII.4501)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Real Estate Commission has initiated procedures to amend LAC 46:LXVII.Chapter 45. The amendment requires all franchisors and franchisees to use a name or trade name that can be clearly distinguished from those used by other franchisors and franchisees.

### Title 46

## PROFESSIONAL AND OCCUPATIONAL STANDARDS

### Part LXVII. Real Estate

#### Chapter 45. Franchise Operations

#### §4501. Registration of Franchise Name

A. ...

B. Any name or trade name used by a franchisor or franchisee shall be a name or trade name that is a clearly identifiable entity that will distinguish itself from other franchisors or franchisees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

Interested parties are invited to submit written comments on the proposed regulations through January 20, 2002 at 4:30 p.m., to Stephanie Boudreaux, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898-4785 or to 9071 Interline Avenue, Baton Rouge, LA 70809.

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*:

The proposed Rules have no known impact on family formation, stability, or autonomy.

Julius C. Willie  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Franchise Operations**

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

There are no estimated implementation costs or savings associated with the proposed Rules.

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

There is no estimated effect on revenue collections. Revenue collections will still be determined by the number of applicants and the time frame within which their license, certificate, or registration is obtained and/or renewed.

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

The proposed language is designed to benefit both the general public and the real estate industry by providing the ability to better determine for whom and/or with whom one is working in a real estate transaction. Present language provides no means in which to clearly distinguish between individual licensees. This omission has created a circumstance whereby individual brokers who are affiliated with a franchise organization may conduct real estate activities in the same trade name. There is no way to estimate cost in that the size of the firm and the extent to which advertising is used will vary.

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

It is possible that the proposed language could impact competition among licensees as it relates to the manner in which they currently advertise; however, there is no way to determine this. There is no estimated effect on employment.

Julius C. Willie  
Executive Director  
0112#062

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Real Estate Commission**

Post Licensing Education Eligibility of Courses, Vendor Advertisement, and Continuing Education on an Individual Basis (LAC 46:LXVII.5515, 5535, and 5539)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Real Estate Commission has initiated procedures to amend LAC 46:LXVII.Chapter 55. The amendments are relative to real estate post licensing and continuing education vendors and serve to (1) require that post licensing courses be open to all licensees; (2) prohibit salesperson prelicensing educational credit for attendance at continuing education and/or post licensing courses; (3) allow broker prelicensing credit for attendance at certain continuing education and/or post licensing courses; and (4) remove the mandatory vendor code number from real estate school advertising guidelines.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXVII. Real Estate**

**Chapter 55. Real Estate Post Licensing and Continuing Education Vendors**

**§5515. Eligibility of Courses**

**A. Post Licensing**

1. Approved post licensing courses must be open to all licensees subject to post licensing requirements, regardless of broker affiliation. Each course acceptable for credit toward fulfillment of the 30-hour post licensing requirements for salespersons or brokers must be a minimum of 4 hours in length and require passage of an examination on course contents as conditions for receiving a post licensing certificate.

**A.2. - 3. ...**

4. Approved real estate schools shall not grant prelicensing educational credit to students enrolled in a salesperson prelicensing educational course for attendance at any continuing education and/or post licensing education course(s) presented by the school for real estate licensees.

5. Approved real estate schools, which present broker prelicensing educational courses separate from salesperson prelicensing courses, may request approval from the commission for continuing education or post licensing credit for real estate licensees, if the course meets applicable post licensing and/or continuing education requirements.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1431 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:56 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

**§5535. Advertisement**

A. All advertisements by approved vendors shall state the exact name of the vendor as registered with the commission.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1431 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

**§5539. Post Licensing and Continuing Education on an Individual Basis**

**A. - B. ...**

C. The commission may approve, on a limited basis, courses offered by entities not registered as approved vendors with the commission. Such approvals may be granted to no more than three specific locations per approval, per non-registered vendor and shall be limited to two approvals per non-registered vendor within a one year period. Non-registered vendors requesting approval beyond this limit will be required to submit an application and receive approval as an approved vendor to be eligible to offer additional courses for post licensing and/or continuing education credit. Entities requesting approval under this provision shall comply with specific application and reporting procedures required by the commission.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1431 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59

(January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

Interested parties are invited to submit written comments on the proposed regulations through January 20, 2002 at 4:30 p.m., to Stephanie Boudreaux, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898-4785 or to 9071 Interline Avenue, Baton Rouge, LA 70809.

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*:

The proposed Rules have no known impact on family formation, stability, or autonomy.

Julius C. Willie  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Post Licensing Education Eligibility of  
Courses, Vendor Advertisement, and Continuing  
Education on an Individual Basis**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There are no estimated implementation costs or savings associated with the proposed Rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no estimated effect on revenue collections. Revenue collections will still be determined by the number of applicants and the time frame within which their license, certificate, or registration is obtained and/or renewed.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The proposed language is considered housekeeping in nature and serves to further define and interpret the existing language. There are no estimated costs and/or economic benefits associated with this Rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no significant net effect on competition and employment.

Julius C. Willie  
Executive Director  
0112#064

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT  
Office of the Governor  
Real Estate Commission**

Real Estate Schools (LAC 46:LXVII.5305, 5323, and 5329)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Real Estate Commission has initiated procedures to amend LAC 46:LXVII.Chapter 53. The amendments (1) update the content requirements for real estate prelicense courses; (2) establish the content and delivery methods for distance education courses; (3) provide for equivalent credit hours;

and (4) remove the mandatory certificate of authority number from real estate school advertising guidelines.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS  
Part LXVII. Real Estate  
Chapter 53. Real Estate Schools  
§5305. Prelicensing Courses Course Content and  
Delivery Method**

A. The commission shall require certified real estate schools to meet content requirements established by the commission in courses offered for salesperson and broker prelicensing credits.

B. ...

1. Real Estate 101C90 hour course in real estate principles/practices, Louisiana Real Estate License Law, Commission Rules and Regulations, Law of Agency and Civil Law pertaining to real estate licensees;

2. Real Estate 201C90 hour basic real estate fundamentals review for broker applicants;

3. Real Estate 202C30 hour course on Louisiana License Law, Rules and Regulations of the Commission, Law of Agency and Louisiana Civil Law pertaining to real estate licensees;

B.4. - C. ...

D. In addition to traditional in-class prelicensing course offerings, the commission may approve prelicensing courses offered through distance education delivery methods. As used in this Chapter, a distance education delivery method is defined as Internet-based instruction in which instruction takes place in other than a classroom setting, the instructor and the student are in physically separate locations, and interactive instructional methods are provided. The commission will approve only those courses through distance education delivery methods that are Internet-based instruction. Each course must meet the following standards:

1. be certified by the Association of Real Estate License Law Officials (ARELLO);

2. provide interactive instruction and teach to mastery;

3. provide a structured learning method that includes major units, clear objectives, modules of instruction, quantitative criteria, diagnostic assessments and remediations;

4. meet the content requirements and equivalent hours required by the commission for in-class presentations;

5. be offered by a Louisiana state certified real estate school;

6. college and university academic credit distance learning courses, if part of a college or university credit curriculum, must be individually approved by the commission, but may use course delivery methods not limited to the Internet.

E. Prior to submitting an application to the commission for approval of prelicensing education courses via Internet-based distance education, the school must apply for and receive approval of the method of course delivery for the proposed course from the Association of Real Estate License Law Officials (ARELLO). Only those courses that meet the commission's standards for course content and equivalent hours will be granted approval by the commission. After receiving approval from ARELLO, the school must file an

application with the commission and include the complete application as filed with ARELLO.

F. Loss of ARELLO certification for a prelicensing course offered via Internet-based education will automatically suspend commission approval of this course.

G. As used in this Chapter, interactive means the course structure and technologies promote active student involvement with the course content, including the ability to:

1. access or bypass optional content, if applicable;
2. submit questions or answer test items, and receive direct feedback; and
3. communicate with the instructor and/or other students on an immediate or reasonably delayed basis. Interactive instruction specifically excludes courses that only provide passive delivery of instructional content.

H. Colleges and university academic credit courses for distance learning will not be required to be ARELLO approved if part of a college or university curriculum. Any other distance learning courses offered to the general public outside of a curriculum program must be ARELLO approved.

I. As used in this Chapter, college or university is defined as one who offers at least a two-year degree approved by the Louisiana Board of Regents or equivalent regulatory body in any other state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

### **§5323. Certificates of Completion Classroom or Equivalent Hours**

A. Each real estate school shall provide an individual certificate of completion or comparable completion verification to each student only upon successful completion of a course of study. Such verification shall include student name, date of completion, course level, number of hours or equivalent hours completed, and shall be signed by the school director or an authorized designee.

B. - D. ...

E. Equivalent hours, as used in this Chapter, means the time required for the average student to master the required content in a prelicensing course of instruction through an approved Internet-based distance education course that is equivalent to the in-class prelicensing course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

### **§5329. School Advertising**

A. Advertising by certified schools shall be clear, concise and accurate. All advertisements shall be in the name of the real estate school as certified by the commission.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:55 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

Interested parties are invited to submit written comments on the proposed regulations through January 20, 2002 at 4:30 p.m., to Stephanie Boudreaux, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA, 70898-4785 or to 9071 Interline Avenue, Baton Rouge, LA 70809.

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*:

The proposed Rules have no known impact on family formation, stability, or autonomy.

Julius C. Willie  
Executive Director

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Real Estate Schools**

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

There are no estimated implementation costs or savings associated with the proposed Rules.

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

It is possible that revenue collection could be affected by the proposed language; however, there is no way to estimate the possible impact. The impact, if any, will be determined by the number of course providers who choose to submit applications for course approval and the number of applications submitted.

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

Course providers who choose to offer distance learning programs may incur implementation and maintenance costs; however, there is no way to estimate these costs. The proposed language may result in an economic benefit to these course providers in that it expands the type of courses that can be offered to students. This program also provides the means in which to make courses readily available to the general public residing in less populated areas of the state, without the added expense of providing a local facility and an on-site instructor.

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

There is no significant net effect on competition and employment.

Julius C. Willie  
Executive Director  
0112#063

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Office of the Governor Real Estate Commission**

Trade Names (LAC 46:LXVII.1903)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Real Estate Commission has initiated procedures to amend LAC 46:LXVII.Chapter 19. The amendment requires all names or trade names used by licensees, registrants, or certificate

holders in advertising and/or written or verbal communication to be a clearly distinguished entity from the names or trade names used by other licensees, registrants, or certificate holders.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part LXVII. Real Estate**

**Chapter 19. Names on Licenses, Registrations, and Certificates; Trade Names; Symbols; and Trademarks**

**§1903. Trade names**

A. ...

B. All names and/or trade names used by licensees, registrants or certificate holders in advertising and/or written or verbal communications of any kind shall be a name that is a clearly identifiable entity that will distinguish it from other licensees, registrants or certificate holders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

Interested parties are invited to submit written comments on the proposed regulations through January 20, 2002, at 4:30 p.m., to Stephanie Boudreaux, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898-4785 or to 9071 Interline Avenue, Baton Rouge, LA 70809.

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*:

The proposed Rules have no known impact on family formation, stability, or autonomy.

Julius C. Willie  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES  
RULE TITLE: Trade Names**

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

There are no estimated implementation costs or savings associated with the proposed Rules.

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

There is no estimated effect on revenue collections. Revenue collections will still be determined by the number of applicants and the time frame which their license, certificate, or registration is obtained and/or renewed.

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

Real estate licensees, registrants, and certificate holders may be required to modify current advertising; however, there is no way to estimate in that the size of the firm and the extent to which advertising is used will vary. The proposed language is designed to benefit both the general public and the real estate industry by providing the ability to better determine for whom and/or with whom one is working in a real estate transaction.

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

It is possible that the proposed language could impact competition among licensees as it relates to the manner in which they currently advertise; however, there is no way in which to determine this. There is no estimated effect on employment.

Julius C. Willie  
Executive Director  
0112#060

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Nursing  
and  
Board of Medical Examiners**

Authorized Practice  
(LAC 46:XLVII.4513)

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S.49:950 et seq., that the Board of Nursing (board) and the Board of Medical Examiners 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 the authorized practice of Advanced Practice Registered Nurses. The proposed amendments of the rules are set forth below.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part XLVII. Nurses**

**Subpart 2. Registered Nurses**

**Chapter 45. Advanced Practice Registered Nurses**

**§4513. Authorized Practice**

A. - C.2 y

3. Definitions as used in this Part:

\* \* \*

*Collaborating Physician*Ca physician in active practice with whom the APRN has developed and signed a collaborative practice agreement for limited prescriptive and distributing authority and who holds a current, unencumbered, unrestricted and valid medical license issued or recognized by the Louisiana State Board of Medical Examiners and is in good standing with no pending disciplinary proceedings, and practices in accordance with rules of the Louisiana State Board of Medical Examiners. A collaborating physician shall have current hospital privileges prior to an APRN seeking hospital privileges at the same institution.

\* \* \*

*Joint Administration Committee or Committee*Cthe joint committee comprised of five members designated by the board and five members designated by the Louisiana State Board of Medical Examiners as follows:

i. one APRN practicing in a rural area, appointed by the board from a list submitted by the Louisiana Association of Nurse Practitioners;

ii. one APRN practicing in an urban area appointed by the board from a list submitted by Louisiana State Nurses Association;

iii. three registered nurses on the board appointed by the board;

iv. two physicians on the Louisiana State Board of Medical Examiners appointed by the Louisiana State Board of Medical Examiners;

v. one physician that collaborates with an APRN practicing in a rural area appointed by the Louisiana State Board of Medical Examiners from a list submitted by the Louisiana State Medical Society;

vi. one physician that collaborates with an APRN practicing in an urban area appointed by the Louisiana State Board of Medical Examiners from a list submitted by the Louisiana State Medical Society;

vii. one physician that collaborates with an APRN appointed by the Louisiana State Board of Medical Examiners from a list submitted by the Louisiana Medical Association.

\* \* \*

*Under Physician Direction* the limited prescriptive authority as approved by the Joint Administration Committee and demonstrated in the collaborative practice agreement as provided for in R.S. 37:913(9). Physician direction of the APRN is essential and implies that there is informed concurrence of the limited prescriptive authority actions of the APRN, in accordance with written clinical practice guidelines in existence between the collaborating physician and the APRN. Although physician direction shall not be construed in every case to require the physical presence of the collaborating physician, he shall be within a reasonable distance to provide timely response to medical emergencies and he and the APRN must have the capability to be in contact with each other by telephone or other telecommunications devices. Reasonable distance implies that the collaborating physician is within the local area of the APRN's practice site or sites and is not attending an educational program or on vacation in another state or country.

\* \* \*

4.a. - d. ¶

i. 500 hours of clinical practice as a licensed APRN within the last 6 months in the clinical specialty for which the applicant was educationally prepared as an APRN immediately prior to applying for limited prescriptive and distributing authority; practice in another state as a licensed APRN may be accepted to meet this requirement;

ii. successful completion of a minimum of 36 contact hours of education in advanced pharmacotherapeutics obtained as a component of a formal educational program preparing registered nurses for advanced practice or continuing education programs for advanced practice, approved by the board, within the 4-year time period immediately prior to the date of initial application for prescriptive and distributing authority with at least 12 hours having been obtained within two years prior to application. The APRN shall submit the continuing education advanced pharmacotherapeutics curriculum to the board for review and approval. The APRN shall obtain at least 2/3 of the required pharmacotherapeutic hours by attending continuing education programs and may obtain 1/3 of the required pharmacotherapeutic hours by non-lecture programs, such as computer assisted instruction and/or self-study accredited by a national professional accrediting organization approved by the board. Continuing Medical Units may be used as continuing education provided that the

offering documents the number of advanced pharmacotherapeutic hours in the educational offering. In order for the continuing education course to be approved by the board, the course shall include:

4.d.i.(a) - v.(c). ¶

(i). is available by telephone or direct telecommunications for consultation, assistance with medical emergencies, or patient referral; in the absence of the collaborating physician the following shall apply:

[a]. the back-up physician or physicians shall be in good standing and approved by the medical board and review and sign the collaborative practice agreement;

[b]. in the event that the collaborating physician fails to name a back-up physician, the collaborative practice agreement shall clearly state that the APRN will not prescribe in the absence of the collaborating physician;

4.d.v.(c).(ii) - (e). ¶

vi. the committee shall develop guidelines extending or modifying the requirements of "under physician direction", as defined in LAC 46:XLVII.4513.C.3, as well as the requirements of LAC 46:XLVII.4513.C.4.d.v. (c), for an APRN who is employed by or who contracts with the Louisiana Department of Health and Hospitals' Office of Public Health to specifically provide family planning, Human Immunodeficiency Virus ("HIV") infection or sexually transmitted disease treatment or services and Rural Health Clinics.

4.d.vii. - b. ¶

c. An APRN who is granted limited prescriptive authority shall not prescribe or distribute any controlled substance as defined, enumerated or included in federal or state statutes or regulations, 21 CFR 1308.11-15., R.S. 40:964, or any substance which may hereafter be designated a controlled substance by amendment or supplementation of the cited regulations and statute. The committee may authorize an APRN with limited prescriptive authority to prescribe or distribute controlled substances on an individual practice basis. An APRN who is so authorized shall provide their Drug Enforcement Administration registration number on all written prescriptions and be furnished on all oral prescriptions and shall comply with all scheduled drug prescription requirements in accordance with LAC 46:LIII.3531, Schedule Drug Prescription Requirements.

i. An APRN who is granted limited prescriptive authority may request approval of the Joint Administration Committee to prescribe and distribute controlled substances to the extent expressly authorized by the APRN's collaborating physician provided that:

(a). the APRN has been approved by the Joint Administration Committee to prescribe and distribute noncontrolled substances;

(b). the APRN has been approved by the board to prescribe and distribute noncontrolled substances;

(c). the APRN has practiced with limited prescriptive and distributing authority with the same collaborating physician in the APRN's licensed category and area of specialization for 500 hours immediately preceding the initial request and 160 hours of collaborative practice for each additional request;

(d). the APRN's application, provides to the satisfaction of the Joint Administration Committee, an

identified need for controlled substances within the patient population served by the collaborative practice;

(e). controlled substances utilization is expressly contained in the collaborative practice agreement, which specifies the circumstances, limitations and extent to which such substances may be prescribed or distributed; and

(f). the collaborative practice agreement contains acknowledgment of responsibility by the collaborating physician to ensure that the controlled substance authority of an APRN is utilized in a manner that is consistent with any rule or regulation imposed upon his practice.

ii. Controlled substances which may be prescribed or distributed by an APRN shall be limited to Schedule III, IV and V and shall be limited to, consistent with, and exclusively within the parameters of the practice specialty of the collaborating physician and the APRN's licensed category and area of specialization. The committee may approve an APRN to prescribe certain drugs to treat Attention Deficit Disorder (ADD).

iii. An APRN granted authority to prescribe or distribute controlled substances shall not utilize such substances in connection with the treatment of:

(a). chronic or intractable pain, as defined in LAC 46:XLV.6515 - 6923;

(b). obesity, as defined in LAC 46:XLV.6901 - 6913; or

(c). oneself, a spouse, child or any other family member.

iv. Any APRN authorized to prescribe controlled substances shall provide to the Board a copy of his or her Louisiana Controlled Dangerous Substance permit and Drug Enforcement Administration registration number prior to prescribing or distributing controlled substances. A place for an APRN to write their DEA number, as well as the name, address and telephone number of the collaborating physician, shall be pre-printed on the prescription pad and a sample of the prescription shall be submitted to the board for approval prior to prescribing or distributing controlled substances.

d. ¶

e. Each year an APRN with limited prescriptive authority shall obtain six contact hours of continuing education in pharmacotherapeutics in their category and area of specialization. Documentation of completion of the continuing education contact hours required for prescriptive authority shall be submitted at the time of the APRN's license renewal. The APRN shall obtain at least 2/3 of the required advanced pharmacotherapeutic hours by attending continuing education and may obtain 1/3 of the required advanced pharmacotherapeutic hours by non-lecture offerings or Continuing Medical Education Units (CMEs) provided that the offering documents the number of advanced pharmacotherapeutic hours in the educational offering. In order for the continuing education program to be approved by the board, the program shall:

i. be provided by a board approved national certifying organization or provider approved by the board;

5.e.ii. - f. ¶

g. Prior to changes with the collaborating physician, or physicians or coverage physician, when applicable, the APRN shall notify the board in writing requesting approval of such changes. The board may approve changes in the practice site or sites when both the collaborating physician(s) and APRN has been previously approved by the Committee and all other requirements are met as set forth in these rules. The APRN shall notify the board in writing within thirty days of all changes regarding practice sites.

5.h. - 6. ¶

a. Receive and distribute free drug samples and other gratuitous medications supplied by drug manufacturers, other than controlled substances, that shall:

6.a.i. - 10. ¶

11. Reinstatement. AN APRN who has been approved by the Joint Administration Committee for limited prescriptive and distributive authority and who has ceased practicing limited prescriptive authority for more than 12 months may apply for reinstatement of such authority.

a. In the event that the time period is greater than 12 months but less than 4 years the APRN shall:

i. meet the requirements as set forth in LAC 46:XLVII.4513.4.a, b, and c.

ii. provide evidence of 6 contact hours of continuing education in pharmacotherapeutics for each 12-month period of non-prescribing in their category and area of specialization. The APRN shall obtain at least 2/3 of the required advanced pharmacotherapeutic hours by attending continuing education and may obtain 1/3 of the required advanced pharmacotherapeutic hours by non-lecture offerings or Continuing Medical Education Units (CMEs) provided that the offering documents the number of advanced pharmacotherapeutic hours in the educational offering. In order for the continuing education program to be approved by the Board, the program shall:

(a). be provided by a board approved national certifying organization or provider approved by the board;

(b). include content relevant to advanced practice nursing and the use of pharmacological agents in the prevention of illness, and the restoration and maintenance of health.

b. In the event that the time period is greater than four years the APRN shall meet the requirements as set forth in LAC 46:XLVII.4513.4.a., b., c., and d.ii.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.(12), and R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended by the Board of Nursing and Board of Medical Examiners, LR 22:981 (October 1996), LR 25:1245 (June 1999), amended by the Board of Nursing, LR 27:727 (May 2001), amended by the Board of Nursing and the Board of Medical Examiners LR 28:

#### **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 North Causeway Boulevard, Suite 501, Metairie, LA, 70002. The deadline for receipt of all written comments is 4:30 p.m. on November 9, 2001.

Barbara L. Morvant  
Executive Director  
and  
John Bobear  
Interim Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Authorized Practice**

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

It is anticipated that no additional staff will be needed to implement these rule changes, although the changes will increase the current staff workload. Additional operating expenses including printing and postage will be required, as well as the addition of two members to the Joint Administration Committee.

The anticipated costs for the FY 2001/2002 will be \$4,992 (\$600 for postage and printing and estimated travel for flight costing \$250 x 6 approximate meetings per year x 2 additional members of JAC = \$3,000 + meals @ \$36/day x 6 meetings per year x 2 additional members = \$432 + lodging @ \$80/day x 6 meetings per year x 2 additional JAC members = \$960/year, with a total of \$4,992 for FY 2001/2002). At an estimated addition of \$100/year for inflation of travel costs, the estimated total cost for FY 2002/2003 is \$5,092 and \$5,192 for FY 2003/2004.

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

The number of advance practice registered nurses who requested a change in practice site average six each meeting. With six meetings per year, this equals to 36 APRNs who request a change in practice site. With the deletion of the \$25 Change of Site fee for APRNs who have collaborating physicians who are previously approved, this would equal to \$900 the first year. Taking into account the increasing numbers of APRNs who request Limited Prescribing and Distributing Authority, the amount was increased by \$100 per year.

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

Those individuals with limited prescriptive and distributive authority who request and are granted privileges to prescribe controlled substances within their collaborative practice agreement with their physician will expand their scope of practice, thus benefiting these individuals. Furthermore, the deletion of the \$25 fee for a change in practice site will decrease these individuals operating costs.

The public will also benefit from the increased scope of the advanced practice registered nurse with prescriptive privileges who can prescribe controlled substances within their collaborative practice agreement with their physician by decreased wait time for the physician and availability of the advanced practice registered nurse.

These applicants will be required to demonstrate meeting the same educational requirements and certification requirements as accepted by the Board for limited prescribing and distributing authority and will have to be approved by the Joint Administrative Committee on an individual basis.

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

An estimate of the impact of the proposed action on competition and employment is unknown at this time. However, it is anticipated that 50 percent of the 327 APRNs who have Limited Prescriptive and Distributing Authority will apply for the privileges. It is assumed that the expanded scope of practice for these persons will result in an increase in the numbers and medical conditions of clients they can treat; thereby resulting in increased employment and job security for those persons with Controlled Substance privileges.

Barbara L. Morvant  
Executive Director  
0112#028

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Identification of Hearing Impairment in Infants  
(LAC 48:V.Chapter 22)**

In accordance with the applicable provision of the Administrative Procedure Act, R.S. 49:950 et seq., and the Identification of Hearing Impairment in Infants, R.S. 46:2261 et seq., notice is hereby given that the Department of Health and Hospitals, Office of Public Health intends to revise procedures for the screening of infants to identify hearing impairment, testing of all newborns and referral of newborns failing screening for appropriate follow-up services and ensure proper information distribution to parents, primary care physicians and interested groups.

Louisiana's Act 417 of 1992 mandated hearing screenings of all high-risk infants and rules and regulations were adopted to implement the program in accordance with the Administrative Procedure Act. On July 1, 1999, Act 417 was amended by Act 653 of the 1999 Regular Legislative Session to require universal hearing screening of all newborn infants, rather than screening of only those infants with high-risk factors.

It is necessary that new Rules be adopted to allow for the proper statewide implementation of universal newborn hearing screening as required by the amended legislative provisions as included in Act 653 of the 1999 Regular Legislative Session.

**Title 48  
PUBLIC HEALTH GENERAL  
Part V. Preventive Health Services  
Subpart 7. Maternal and Child Health Services  
Chapter 22. Identification of Hearing Impairment in Infants  
§2201. Definitions**

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*Program*Cthe Hearing, Speech and Vision Program within the office.

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**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:2261-2267.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 19:1430 (November 1993), amended LR 28:

**§2203. Program for Identification of Hearing Loss in Infants**

- A. The program will include the following.
  - 1. The office will require a newborn hearing screening report to be used by the hospitals to report hearing screening results and risk status on all newborns to the risk registry. This form will include written material regarding hearing loss and a toll-free hotline phone number (V/TDD).

2. - 6. ...

**B. Implementation**

- 1. All birthing sites in Louisiana must be in compliance with this act by April 1, 2002.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2261-2267.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 19:1431 (November 1993), amended LR 28:

**§2205. Procedures for Hospitals**

- A. Hospitals shall complete the newborn screening report on all live births.

- B. Hospitals shall conduct hearing screening on all newborn infants before discharge.

C. - D. ...

- E. If an infant is born in one hospital and transferred to one or more hospital(s), the last hospital to which the infant is transferred before being discharged into the care of a parent, or guardian for purposes other than transport, must complete the newborn infant hearing report and perform the hearing screening.

- F. If an infant is to be placed for adoption and is to be transferred to another hospital for adoption, the hospital at which the infant is born is to complete the newborn hearing screening report and perform the hearing screening (unless §2205.E above applies). The parent copy of the newborn hearing screening report shall be sent to the guardian.

G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2261-2267.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 19:1431 (November 1993), amended LR 28:

**§2207. Procedures for Other (Alternative) Birthing Sites**

A. ...

- B. Hearing screening shall be performed at the alternative birthing site before discharge. The results of the screening shall be recorded on the newborn hearing screening report.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2261-2267.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 19:1431 (November 1993), amended LR 28:

**§2209. Hearing Screening Procedures**

- A. Personnel. Hearing screening will only be performed by:

- 1. board eligible or board certified physicians with special training in auditory brainstem response testing and/or otoacoustic emissions and in infant hearing testing. Evidence of training must be submitted to the office;

- 2. audiologists licensed by the Louisiana Board of Examiners for Speech Pathology and Audiology with special training in auditory brainstem response testing and/or

otoacoustic emissions testing and in infant hearing testing. Evidence of training must be submitted to the office;

3. ...

- B. Test Procedures. The following test procedures are the only acceptable methods for use in infant hearing screening:

- 1. Auditory Brainstem Response (ABR) either automated or non-automated;

- 2. Evoked Otoacoustic Emission (EOAE);

- 3. test levels, failure criteria and all other test parameters are set by protocols established by the office, upon recommendations of the State Advisory Council.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2261-2267.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 19:1431 (November 1993), amended LR 28:

**§2210. Referral and Follow-Up**

- A. Referrals for infants failing screening must be made to the infants primary care physician and a licensed audiologist within seven days of discharge by the birthing center.

- B. Appropriate protocols and standards for diagnostic evaluations to determine hearing loss shall be established by the office, upon recommendations of the State Advisory Council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2261-2267.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

**§2213. Risk Registry and Tracking**

A. - C. ...

- D. The office will develop a system for reporting diagnosis of hearing loss by primary health care providers, audiologists and parents for children up to age 5.

E. - F. ...

**G Non-Compliance And Penalties**

- 1. The State Advisory Council shall recommend to the office methods of monitoring hospitals, physicians and audiologists for compliance with all sections of this statute.

- 2. The State Advisory Council shall report any hospital, physician or audiologist found to be non-compliant to the appropriate licensing, regulatory or other appropriate agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2261-2267.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 19:1432 (November 1993), amended LR 28:

**Family Impact Statement**

The proposed revisions to LAC 48:V.Chapter 22 will have a significant positive impact on families in Louisiana as indicated.

- 1. The Effect on the Stability of the Family. Economically, this Rule will have a beneficial effect on the stability of patients and families served, as this change ensures the early identification of hard of hearing and deaf individuals. This will allow for appropriate early intervention, ideally initiated by 6 months of age, that has been shown to result in normal early developmental profiles when children reach kindergarten. A normal early development can result in increased earning power, achievement of higher education status and more independence in daily activities. Early identified hard of

hearing children can be mainstreamed into regular school programs, often eliminating the need for costly special instruction, services and therapy.

Through community-based, family-centered care and the development and availability of local referral sources, children will be able to remain in their communities and receive care and services close to home, contributing to the strengthening of family ties and stability.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule change will ultimately allow parents of hard of hearing and deaf children more options and opportunities for educational choices for their children. Early identification of hard of hearing children has been shown to lead to normal developmental profiles in children, allowing them to be mainstreamed into regular school programs, often eliminating the need for resources services, speech/language/hearing therapy and training and other special education support and services. Parents' rights and decisions making are retained regarding approval and consensus with any type of academic placement and choice of special education services.

3. The Effect on the Functioning of the Family. This Rule will positively effect family functioning that has been previously and negatively impacted by late identification and the subsequent need for costly educational placement, reduced earning capacity, and delays in speech, language, social and academic skills. Through the development of a follow-up system of care, parents will be provided with community-based, family centered care and referral sources and be able to remain, and function, in their communities, receiving any care and services close to home.

4. The Effect on Family Earnings and Family Budget. This Rule change will positively effect the earnings and family budget of effected families by allowing for the education of their children in regular school programs and often eliminating the need for costly support services, such as speech and language therapy, aural (auditory) habilitation, therapy and training and other special education services. It will allow families to have more disposable income available for their own use by reducing expenditures for the above services. In addition, many families will significantly benefit from increased opportunities and employment potential leading to increased earning power and independent functioning for their children.

5. The Effect on the Behavior and Personal Responsibility of Children. Early identification of hearing impairment and the subsequent appropriate early intervention have been shown to significantly improve the social, academic, emotional and language abilities of hearing impaired children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. This function as contained in the proposed Rule is required to be coordinated and implemented by the Office of Public Health, with input, guidance and suggestions from a State Advisory Council appointed by the governor. The State Advisory Council requires the membership of parents of children who are deaf or hard of hearing, thereby consistently providing the input of families into the design and implementation of the program. The program is developing regional and local support/referral systems to

serve the families in a comprehensive, coordinated, culturally competent, seamless manner and system of care, with support and guidance provided to families as needed.

A public hearing on the adoption of this proposed Rule change will be held on January 28, 2002, at 1:30 p.m. at 325 Loyola Avenue, Room 511, New Orleans, LA 70112. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Interested persons may also submit written comments to Linda Pippins, Children's Special Health Services Administrator, 325 Loyola Avenue, Room 607, New Orleans, LA 70112. She is responsible for responding to inquires regarding this adoption. The deadline for the receipt of all written comments is 4:30 p.m. on the next day following the public hearing as scheduled.

David W. Hood  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Identification of Hearing Impairment in Infants

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

The agency will incur a one time cost for publication of the required Notice of Intent and final Rule in the *Louisiana Register*. Legislation in 1993 mandating this program was passed without funding but the program was implemented in 1994 with current staff and funding. Recent federal grants have added 100 percent federal funds for program improvements.

The early identification of hearing loss and subsequent initiation of early intervention will save state and local governments significant funds in special education, rehabilitation and vocational costs in future years.

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

It is estimated that there will be no effect on revenue collections of state or local governmental units.

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

In-hospital costs associated with implementing this Rule will be minimal because birthing hospitals are currently required to provide newborn hearing screening for high risk infants. Birthing hospitals already have appropriate equipment for testing. Approximately 50 percent of hospitals currently comply with universal screening voluntarily and will incur no further costs. The remaining hospitals may experience some increased costs for the time that it takes personnel to perform the screening on additional newborns. These costs will be different for each facility depending upon the number of births occurring at the hospital. Costs to families for performing these tests will be the same, they will just occur earlier in the child's life rather than later.

Economic benefits to hard of hearing and deaf persons and their families are great when the impairment is identified before 6 months of age. These include increased earning power, achievement of higher education status, and more independence in daily activities. Research has shown that children whose hearing losses are identified before 6 months of age and receive appropriate early intervention have developmental profiles within the normal range when they reach kindergarten. Many children can then be mainstreamed

into regular school programs saving funds for costly special education services.

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

Competition and employment will be increased as a result of the early identification of hearing loss in affected individuals. These individuals will have increased opportunities and potential for employment.

Madeline W. McAndrew  
Assistant Secretary  
0112#107

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

Rural Health Clinics Licensing Standards  
(LAC 48:I:Chapter 75)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to amend the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is amended in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Act 1333 of the 1997 Louisiana Legislative Regular Session enacted R.S. 40:2197 relative to rural health clinics to: 1) authorize the Department of Health and Hospitals to license rural health clinics; 2) prohibit operation of a rural health clinic without a license; 3) require the Department to prescribe and publish minimum standards, rules, and regulations as necessary; 4) provide that licenses issued for rural health clinics are not transferable or assignable between persons, rural health clinics, or both; 5) define the terms rural health clinic and mid-level practitioner; and 6) provide for related matters. The Bureau adopted a rule governing the licensing and regulation of rural health clinics (*Louisiana Register, Volume 25, Number 10*). In order to ensure that these licensure standards continue to protect and promote the health and welfare of consumers of rural health clinic services, the Department proposes to amend designated provisions of the October 20, 1999 rule to provide clarification of the regulations.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends the October 20, 1999 rule to revise designated provisions of the regulations governing licensure of rural health clinics.

#### Title 48

#### Public Health General

#### Part I. General Administration

#### Subpart 3. Licensing and Certification

#### Chapter 75. Licensing of Rural Health Clinics

#### §7501. Definitions and Acronyms

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*Professional Services* Cdocumented on-site visits at the clinic or in locations other than the clinic, such as the patient's home, for the purpose of providing professional level skilled services. *Professional Services* include physical assessment, any of the waived clinical laboratory tests and treatment/education for the illness diagnosed when provided by a qualified professional as defined below.

*Qualified Professionals* Cone of the following professionals qualified to provide services:

- a. Physician CDoctor of Medicine (MD);
- b. Advanced Practice Registered Nurse (APRN);
- c. Licensed Physician's Assistant (PA);
- d. Licensed Social Worker CLicensed Clinical Social Worker (LCSW);
- e. Licensed Clinical Psychologist (LP).

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*Secretary* Bsecretary of the Department of Health and Hospitals.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

#### §7503. Licensing

A. General Provisions. Rural Health Clinics shall:

1. ...
2. meet and maintain compliance with all current DHH minimum licensing standards;
3. - 4. ...
5. The rural health clinic license shall be posted within public view in a conspicuous place within the facility.

B. - B.2.a. ...

b. Complete and submit an original rural health clinic licensing application.

B.2.c. - C.2.d. ...

D. Informal Dispute Resolution. Following each survey, the provider will have one opportunity to question citations of deficient practice through an informal dispute resolution process. Notice is sent with each statement of deficiencies and provides instructions on how to request the informal dispute resolution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

#### §7505. Denial, Revocation, or Non-Renewal of License

A. The Secretary of DHH may deny an application for a license, refuse to renew a license or revoke a license when an investigation reveals that the applicant or licensee is not in conformance with or in violation of the provisions of R.S. 40:2197, provided that in all such cases, the Secretary shall furnish the applicant or licensee 30 calendar days written notice specifying the reasons for the action.

B. A rural health clinic license may be denied, revoked, or non-renewed for any of, but not limited to, the following reasons:

1. failure to meet any of the minimum standards, rules and regulations as prescribed under R.S. 40:2197;
2. conviction of a felony, as shown by a certified copy of the applicant's record of the court of conviction, or if the applicant is a firm or corporation, on any of its members or

officers, or of the person designated to manage or supervise the facility; or if the supervisor of the facility is not reputable; or if the staff or a member of the staff is temperamentally or otherwise unsuited for the care of the patients in the facility. For the purposes of this Paragraph, *conviction of a felony* means and includes:

- a. conviction of a criminal offense related to that person's involvement in any program under Medicare or Medicaid, since the inception of those programs;
- b. conviction of a felony relating to violence, abuse and/or neglect of a person;
- c. conviction of a felony related to the misappropriation of property belonging to another person;
3. failure to comply with all federal, state and local laws;
4. failure of the facility to protect patients/persons in the community from harmful actions of the clinic employees, including but not limited to:
  - a. health;
  - b. safety;
  - c. coercion;
  - d. threat;
  - e. intimidation;
  - f. solicitation; and
  - g. harassment;
5. failure to maintain adequate staff to provide necessary services to current active patients;
6. failure to employ qualified personnel;
7. failure to remain fully operational at all times for any reason other than a disaster;
8. failure to submit fees, including but not limited to, annual renewal fee at least 30 days prior to the license expiration date;
9. failure to allow entry to the rural health clinic or access to any requested records during any state or federal survey;
10. cruelty to patients.

C. Any involuntary termination, failure to renew, or voluntary termination of the facility's license to avoid adverse action will automatically prevent the facility, the facility owners, professional staff, administrative staff, family members and others as appropriate from applying for a RHC license, or from owning or working with a rural health clinic, for at least one year. Persons who own 5 percent or more of a facility are considered owners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

#### **§7507. Changes/Reporting**

A. - B.3.c. ...

d. use of a contract mid-level practitioner instead of the employee for any period of time greater than 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

#### **§7509. Annual Licensing Renewal**

A. Department of Health and Hospital Responsibilities. It is the responsibility of DHH to:

1. send a letter of notification of license renewal to the facility approximately 45 days prior to expiration of the license;

2. conduct an annual survey to assure that the facility provides quality care and adheres to licensing requirements; and

3. make a determination and take appropriate action regarding licensing.

B. Rural Health Clinic Responsibilities. It is the responsibility of the RHC to:

1. notify DHH if the renewal letter is not received in a timely manner;

2. complete the licensing application and obtain and submit other required data; and

3. submit the appropriate license fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

#### **§7511. Notice and Appeal Procedures**

A. Administrative Appeal. In accordance with the Administrative Procedure Act, the facility may request an administrative appeal when notice is received of denial of initial license, denial of a license renewal or revocation of the license. The request for the administrative appeal must be submitted in writing to the Department of Health and Hospitals, Office of the Secretary, within 30 days of receipt of the notice of the adverse action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

#### **§7515. Voluntary Cessation of Business**

A. - A.2. ...

B. Expiration of License. Failure to renew a license prior to its expiration date shall result in non-renewal of the license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

#### **§7517. Personnel Qualifications/Responsibilities**

A. - B.1.b. ...

2. Mid-level Practitioner. The mid-level practitioner shall be appropriately licensed and credentialed as either an advanced practice registered nurse (family nurse practitioner) or physician's assistant. The mid-level practitioner(s) shall be required to maintain Advanced Cardiac Life Support (ACLS) certification to assure his/her proficiency in accepted standards of emergency care. If a facility has a current written agreement with an advanced life support provider, who can provide care within 10 minutes, then the mid-level practitioner and/or physician are exempt from this required certification.

B.2.a. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

**§7519. Services**

A. - A.2. ...

B. Diagnostic Services. The clinic must have the capacity to evaluate and make initial diagnoses on-site in order to refer the patient to the appropriate facility for treatment and/or more definitive diagnoses. RHCs shall, as a minimum, provide basic laboratory services essential to the immediate diagnosis and treatment of the patient. This includes:

1. chemical examinations of urine by stick or tablet method, or both (including urine ketones);
2. hemoglobin or hematocrit;
3. blood glucose;
4. examination of stool specimens for occult blood;
5. pregnancy tests; and
6. primary culturing for transmittal to a certified laboratory.

C. - C.1.c. ...

2. Emergency Care. The clinic shall maintain emergency equipment, medications and personnel to provide pre-hospital advanced cardiac life support until emergency transportation can arrive and assume care of those in need of services.

C.2.a - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

**§7521. Agency Operations**

A. - A.2.d. ...

B. Agreements. Written agreements shall be clearly worded, dated, reviewed and signed by all parties. All agreements shall be updated as needed to reflect any changes in relationships, provision of services, or other pertinent information.

C. Operation Hours. A facility shall provide:

1. primary care services at least 36 hours per week. For rural health clinics located in parishes designated as priority access, mobile units and RHC's with low caseloads, the Department may waive such requirement if:

- a. the RHC demonstrates to the satisfaction of the Health Standards Section of DHH that by providing primary care services less than 36 hours per week, patients are not denied access to care;
- b. the Department determines that a waiver of the requirement will not endanger the health or safety of patients needing RHC services; and
- c. a waiver granted by the Department is subject to annual review;

2. on-call qualified professional assistance for 24 hours per day, seven days per week;

3. appropriately qualified professional staff on duty during all hours of operation. Failure to do so will result in immediate adverse action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

**§7523. Procedural Standards**

A. The following processes are required for rural health clinics in Louisiana:

1. Access to Care. Rural Health Clinics shall:

a. be in compliance with R.S. 40:2007 if the RHC is located within another health care provider.

A.1.b. - A.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

**§7533. Advisory Committee**

A. All members of the advisory committee shall be designated in writing and approved by the governing board. The advisory committee shall be composed of two medical professionals, and at least one consumer of services, not employed by the facility. However, facility staff should attend meetings.

A.1. - A.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197, 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 25:1846 (October 1999), amended LR 28:

Implementation of the provisions of this proposed rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, January 29, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Rural Health Clinics  
Licensing Standards**

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 for SFY 2001-02, 2002-03, and 2003-04. It is anticipated that \$520 (\$260 SGF and \$260 FED) will be expended in SFY 2001-02 for the states 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 impact federal revenue collections.

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

Implementation of this proposed rule will not have estimable costs and/or economic benefits for directly affected

persons or non-governmental groups. This proposed rule will protect the health and well being of rural health clinic patients by ensuring proper licensing standards for participating providers of these medically necessary services.

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

There is no known effect on competition and employment.

Ben A. Bearden  
Agency Head or Designee  
0112#113

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Labor Office of Regulatory Services

Private Employment Service (LAC 40:XV.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Labor, Office of Regulatory Services has initiated rulemaking procedures to promulgate amendments and changes to the Rules and Regulations governing the Private Employment Services regarding the administration of the functions of the department under the authority of R.S. 36:304(3).

#### Title 40

#### LABOR AND EMPLOYMENT

#### Part XV. Private Employment Services

#### Chapter 1. General Provisions

#### §101. Definitions

*Employment Service Manager* Can individual designated by the employment service to conduct the general management, administration and operation of a specified private employment service (PES) office.

*On-Site Consultant* Can individual designated by the employment service, to conduct the general management, administration and operation of a specified private employment service (PES) office, but does not carry the title of manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

#### §103. Operational Mandates

A. A licensee must file with the Assistant Secretary a bond written by a surety company authorized to do business in this state for each licensed office in the sum of \$5,000. The Beneficiary of said bond shall be the Assistant Secretary. An approved bond form (OOL-2) must be executed by the surety company in accordance with data requested on said form and the dates of the bond must coincide with the inclusive dates of the license. Only original bonds containing surety seal will be accepted.

B. A licensee must furnish the Office of Regulatory Services with its business telephone number.

C. A licensee shall at all times conspicuously post, in the main receiving area of his/her office, the current "original" private employment service license to operate.

D. A licensee shall at all times conspicuously post, in the main receiving area of his/her office, a current copy of his/her approved applicant schedule of fees printed in not less than 30-point bold face type.

E. A licensee shall at all times conspicuously post, in the main receiving area of his/her office, a Notice stating that Copies of the Rules and Regulations Governing Private Employment Services and any supplement thereto are available for inspection upon request.

F. Each licensed service must have an individual designated as the on-site manager for that location, or an on-site consultant who has been tested. No individual may be designated as a private employment service manager at more than one location. Each manager and/or on-site consultant shall have successfully passed the private employment service examination.

G. A licensee shall agree to make all records and data pertinent to placement, available to any Office of Regulatory Services Compliance Officers or officials upon request.

H. Prior to sending an applicant on a job interview, the employment service must have a job order from the employer granting permission to the service to submit applicants for a fee, if hired. Each job order must contain the following:

1. date;
2. employer name and address;
3. position description; and
4. approximate salary.

I. Individual documentation must be executed on each interview referral.

J. Any amended fee schedule must be filed with and approved by the Assistant Secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

#### §105. Limitation On Licensees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), repealed by the Department of Labor, Office of Regulatory Services, LR 28:

#### §107. Prohibited Conduct

A. No employment service, employment service manager, and/or consultant shall engage in the following conduct:

1. advertise or use letterheads, receipts, or other written or printed matter unless such materials contain the name of the employment service, as registered with and licensed by the assistant secretary;
2. require an applicant placed in an employer-fee-paid position to pay a fee of any kind;
3. permit an applicant to sign a power of attorney, promissory note, negotiable instrument, or assignment of wages in an amount exceeding the approved and posted fee;
4. no employment service licensee, manager or consultant shall use an alias or any other name in the course

and scope of their employment other than their legal name, unless registered with the Office of Regulatory Services within 30 days from the effective date of these rules. No such request for registration received after 30 days from the effective date of these rules will be considered;

5. charge or receive a fee from an applicant prior to the actual commencement of work on a job procured by the employment service, manager, or consultant, except that where an employed applicant accepts new employment after having signed a contract but fails to report to work on the new job and instead remains with his present employer, a fee not to exceed 20 percent of the fee for permanent employment on the new job may be charged.

6. other than as described in §107.E hereinabove, an employment service shall not receive a fee from an applicant who does not commence work on a job procured by the employment service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

### **§109. Application for License**

#### **A. Initial License**

##### **1. Forms Required to be Completed and Submitted**

a. OOL-1 Application. The facts specified in the application must be sworn and attested before a notary. All applications must be signed by the proposed licensee.

b. OOL-2 Bond Form. In the amount of \$5000 executed by a Surety Company licensed and authorized to do business in Louisiana. Each bond must bear a surety seal and contain licensee's name, private employment service business name, trade names, if applicable and physical location.

c. Corporations shall submit a certified copy of the Articles of Incorporation, which contains the gold seal from the Louisiana Office of Secretary of State.

d. Corporations registered outside of Louisiana must furnish an original certificate of authority to operate in Louisiana, which certificate is issued by the Louisiana Office of Secretary of State.

e. Partnerships shall submit a certified copy of the Articles of Partnership, which contains the gold seal from the Louisiana Office of Secretary of State. Licensee's name must be listed in the Articles of Partnership.

##### **2. Additional Requirements**

a. Three notarized statements from character references.

b. The proposed applicant's contract must be submitted and approved by the Assistant Secretary.

c. Licensees, managers, and/or on-site consultants must pass a written examination, administered by the Office of Regulatory Services, with a score of at least 80 percent.

d. Each proposed licensee must submit a resume detailing his/her business involvement during the preceding 10 years.

e. Each proposed licensee must submit a letter stating whether or not he/she has ever been convicted of a felony or misdemeanor. If he/she has been convicted, full particulars must be given including the offense, the date, the sentence and the court in which the proceeding occurred.

f. A license shall be required for each employment service operated or advertised.

g. Each licensee shall pay a \$300 investigation fee.

h. Services that are "Exclusively Employer Fee Paid" shall submit a notarized statement attesting to same.

i. License fee shall be \$200 per year for each location.

j. License fee for an out-of-state employment service which merely advertises in the state shall be the same as the fee for employment services located in Louisiana.

k. Every license issued shall remain in force until December 31 of year of issuance, unless such license has been revoked pursuant to the provisions of this law or the licensee submit a notarized request to cancel the license.

l. Each corporation must designate an individual, to be tested and to be the licensee. If the licensee leaves the corporation, it must designate a new individual to be licensed. If designated individual is not listed in the Articles of Incorporation, the Board of Directors must furnish a notarized letter attesting to the designated individual's position within the corporation or file an amendment to the articles.

m. Each partnership must designate at least one partner to be tested and to be the licensee. If the licensee leaves the partnership it must designate a new individual to be licensed. If designated partner is not listed in the Articles of Partnership, an amendment to the Articles of Partnership must be filed listing that individual's name.

#### **B. Renewal Licenses**

##### **1. Forms required to be completed and submitted:**

a. OOL-1 Renewal Application;

b. OOL-2 Bond Form (original only) executed by Surety Company or Continuation Certificate, (original only) from Surety Company, the period of coverage must correspond with the license year. Said bond form or continuation certificate must contain licensee's name, private employment service business name, trade name, if applicable and physical location;

c. beginning date of bond or continuation certificate must be January 1 of license year and expiration must be through December 31, of license year.

##### **2. Additional Requirements**

a. Licensees must submit their applicant contract for approval.

b. Services that are "Exclusively Employer Fee Paid" shall submit a statement affirming same.

c. Application for renewal must be received by the Office of Regulatory Services no later than the last business day of the calendar year for which the current license was issued.

d. The failure of any licensee who fails to timely renew a license shall require that the employment service office be closed.

e. Renewal fee shall be \$200 per year for each office location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

### **§111. Reporting Requirements**

#### **A. Address Change**

1. Any change in a licensed employment service's physical location must be reported in writing to the Office of Regulatory Services by the licensee(s) at least two weeks prior to such change.

2. A rider (original only) from the surety company affecting the new address must be submitted to the Office of Regulatory Services prior to such change.

3. Licensee(s) shall return to the Office of Regulatory Services the current original license for reissuance of updated address.

#### **B. Closure of Employment Service**

1. Licensee(s) shall notify the Office of Regulatory Services, in writing immediately upon closing an employment service location.

2. Licensee(s) shall return to the Office of Regulatory Services the current original license for proper cancellation.

#### **C. Change of Ownership**

1. Licensee(s) shall notify the Office of Regulatory Services of any change in ownership of employment service immediately. Such notification must be received 14 days prior to the actual sale.

2. Licensee(s) shall return current original license to the Office of Regulatory Services for proper cancellation.

3. Licensee(s) shall inform the Office of Regulatory Services of proposed new owner/owners' name (s) and address(es).

D. A private employment service license is not transferable and it will not authorize any individual other than the individual to whom it is issued, nor any place or business transacted under any name, nor physical location, other than that designated in the license.

#### **E. Change of Licensed Business Name**

1. Licensee(s) must notify the Office of Regulatory Services, in writing, when changing licensed business name, prior to name change.

2. Licensee(s) must furnish the Office of Regulatory Services, a rider (original) from the surety company covering the new name.

3. Licensee(s) shall return to the Office of Regulatory Services the current original license for reissuance of updated business name.

F. The Office of Regulatory Services will not license services with deceptively similar names.

#### **G. Change of Manager or on-site Consultant**

1. Licensee (s) must notify the Office of Regulatory Services in writing, immediately when changing manager or on-site consultant.

2. Licensee (s) shall furnish the Office of Regulatory Services with new manager's and/or on-site consultant's name.

3. Licensee(s) shall send \$100 fee for each exam administered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

### **§113. Examinations**

A. Each individual named as a private employment service licensee, and each individual named as a private employment service manager and each individual named as an on-site consultant, shall demonstrate sufficient knowledge of the private employment service law, rules and regulations by scoring at least 80 percent on a written examination.

B. The private employment service examination will be developed, administered and scored by the Assistant Secretary, Office of Regulatory Services, or his designee.

C. Each individual to whom the private employment service examination is administered shall pay to the Assistant Secretary a fee of \$100, which shall not be refundable under any circumstance.

D. Examinations will be given within 10 days from the date of request and may be administered at the Office of Regulatory Services' Administrative Office, Baton Rouge, Louisiana, or at any Office of Regulatory Services Field Office at the convenience of the party being tested.

E. Test results will be provided on the same day that the completed examination is received by the Private Employment Service Program Compliance Officer Supervisor for scoring.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

### **§115. Fees For Placement**

#### **A. Resume Preparation**

1. An employment service may prepare an applicant's job resume upon applicant's request at a cost not to exceed the fee set in R.S. 23:111.B(1)(b). The employment service shall furnish the applicant with a copy of the prepared resume at no additional cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

### **§117. Investigations**

A. The Assistant Secretary, upon receipt of a complaint or upon his own motion may initiate an investigation into any alleged violations of the Employment Service Law or of these rules and regulations promulgated thereunder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

### **§119. Revocation**

A. No new license shall be issued to any individual whose prior license has been revoked until the expiration of at least two years, and then only upon a proper showing that the reasons for the revocation have been corrected, that all other requirements for a license have been met, that the necessary examinations have been taken and passed, and that

all fees have been paid. The burden of proof shall be on the applicant.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:112.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

**§121. Enforcement Procedures**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:112.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), repealed by the Department of Labor, Office of Regulatory Services, LR 28:

**§123. Private Employment Services Contract**

A. Applicant Contract Date: \_\_\_\_\_

1. This contract is entered into by and between \_\_\_\_\_, hereinafter referred to as the applicant and, hereinafter referred to as the Employment Service.

2. Should applicant accept employment with an employer or subsidiary to which the employment service has referred within 12 months from date of referral, applicant agrees to pay for professional services in accordance with the schedule contained in Paragraph five. This contract is valid for a period of one year from the above date or can be terminated by either party at any time by written notice, but not to the detriment of any legal rights or obligations incurred prior to such termination.

3. Acceptance means agreement by applicant with an employer to begin work.

4. Schedule of Fees (Rate of Professional Service Charges Based on Projected Annual Compensation at Time of Acceptance). The method of computing applicant's projected annual compensation, shall be 52 times applicant's weekly compensation, or 12 times applicant's monthly compensation or as outlined in Paragraph 7 of this contract. These estimates are for the purpose of computing service charges and in no way guarantee the procured employment for a year.

5. Schedule of Fees

Estimated Gross Annual Compensation	
Maximum Fee	
Less than \$ 4,000	4%
\$4,000 but less than \$ 5,000	5%
\$5,000 but less than \$6,000	6%
\$6,000 but less than \$ 7,000	7%
\$7,000 but less than \$ 8,000	8%
\$8,000 but less than \$ 9,000	9%
\$9,000 but less than \$10,000	10%
\$10,000 but less than \$11,000	11%
\$11,000 but less than \$12,000	12%
\$12,000 but less than \$13,000	13%
\$13,000 but less than \$14,000	14%
\$14, 000 but less than \$15,000	15%
\$15, 000 but less than \$16,000	16%
\$16,000 but less than \$17,000	17%
\$17,000 but less than \$18,000	18%
\$18,000 but less than \$19,000	19%
\$19,000 but less than \$20,000	20%
\$20,000 but less than \$21,000	21%

\$21,000 but less than \$22,000	22%
\$22,000 but less than \$23,000	23%
\$23,000 but less than \$24,000	24%
\$24,000 but less than \$25,000	25%
\$25,000 and up shall never exceed	25%

Fees are rounded down to the nearest dollar.

6. It is agreed that applicant shall at all times have the right to refuse any employment tendered. The fee of the employment service is earned when applicant accepts employment, payable as follows except that in no case shall any portion of the fee be collected before the applicant commences work on the new job and in no case shall the full amount of the fee be mandatorily payable sooner than 30 days from the date employment begins.

Guarantee

If the position the employment service has obtained for applicant ends within 90 consecutive calendar days from date of employment, regardless of reason, the Service Charge will be reduced to 20 percent of the gross earnings of the applicant. All refunds due shall be made promptly by the employment service upon proper verification of earnings with the employer, and in no case shall the delay exceed 14 days from date verification in writing is received. The applicant shall be responsible for obtaining verification of earnings from employer. If applicant accepts a position and then remains with his present employer, he agrees to pay 20 percent of the applicable fee for the position accepted.

7. If applicant accepts a job where he/she is compensated on a straight commission, drawing account, salary plus bonus or any combination of these, he/she agrees that the employment service fee shall be based on his/her first full year's gross compensation as estimated by the employer. The fee shall be adjusted downwards or upward accordingly at the end of the first full year of employment based upon proof of actual compensation. Requests for adjustment must be made by either party in writing within 60 days following the first full year of employment or termination, whichever is sooner. Under no circumstances will overtime pay be included in gross earnings.

8. Applicant's acceptance of an introduction by the employment service shall take precedence over any previous application he may have filed with said employer.

9. Applicant hereby stipulates and agrees to pay a penalty of 25 percent as attorney fees, plus court cost, on the earned fees due the employment service should it become necessary for the service to obtain counsel, a collection service, or resort to court action to collect same.

10. Applicant hereby stipulates that any agreement regarding the reimbursement of the service charge to applicant by the employer, is a separate agreement between said employer and applicant. Applicant further stipulates that regardless of any such agreement, applicant is responsible for the service charge under the conditions and terms of the contract.

11. It is understood that if any section of this contract is in conflict with the Louisiana Private Employment Service Law or the Rules and Regulations established thereunder, then the provisions of law, rule and regulations shall govern. The declaration that any section of this contract conflicts with the provisions of law shall not render the remainder of this contract null, and to that end the sections of this contract are declared severable.

12. The employment service agrees that it will not under any interpretation of this contract make more than one full service charge for any one placement.

13. The parties hereto acknowledge receipt of a copy of this contract; that they have read and understand all provisions thereof and agree to abide by its terms and conditions.

APPLICANT: \_\_\_\_\_  
DATE: \_\_\_\_\_  
BY: \_\_\_\_\_  
PES REPRESENTATIVE: \_\_\_\_\_

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services LR 28:

**§125. PES Contract For Sitters/Nurses**

**A. PES Contract**

1. This agreement entered into this date \_\_\_\_\_ between \_\_\_\_\_ hereinafter referred to as REGISTER and \_\_\_\_\_ hereinafter referred to as the applicant. Should I accept employment with an employer to which \_\_\_\_\_ has referred me within twelve months from date of referral, I agree to pay a fee for professional services in accordance with the fee schedule listed in Paragraph 3.

2. This contract is valid for a period of one year from the above date or may be terminated by either party at any time by written notice, but not to the detriment of any legal rights or obligations incurred prior to such termination.

3. The applicant agrees to pay to \_\_\_\_\_ a fee of \_\_\_\_\_ percent of first year's gross earnings received for employment to which \_\_\_\_\_ has referred the applicant. Should case continue longer than one year, no additional fee will be charged.

4. Applicant hereby agrees to pay a penalty of 25 percent as attorney fees, plus court cost, on the earned fees due \_\_\_\_\_ should it become necessary to obtain counsel, a collection service, or resort to court action.

5. Applicant hereto acknowledges receipt of a copy of this contract; and understands the foregoing contract and agree to all of its terms and conditions.

\_\_\_\_\_  
APPLICANT  
\_\_\_\_\_  
DATE  
\_\_\_\_\_  
REPRESENTATIVE  
\_\_\_\_\_  
DATE

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training,

Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

**§127. Private Employment Services Contract for Applicant Escrow Accounts**

**A. Private Employment Services Contract**

1. This contract is entered into by and between \_\_\_\_\_ hereinafter referred to as the applicant and (name of private employment service) hereinafter referred to as the employment service. Acceptance means agreement by applicant with employer to begin work.

2. Should applicant accept employment with an employer to which the employment service has referred him/her within one year from the date of this contract, the applicant agrees to pay a fee for professional services rendered in accordance with the schedule contained in Paragraph 4. This contract can be terminated by either party at any time by written notice, but not to the detriment of any legal rights or obligations incurred prior to such termination.

3. Applicant hereby agrees to execute a payroll check mailing agreement and a limited power of attorney authorizing the employment service to receive applicant's payroll checks, pay to itself the applicable placement fee and remit the remainder of wages to applicant as spelled out in the limited power of attorney.

4. The professional service placement fee shall be based on the applicant's projected daily wage rate, multiplied times \_\_\_\_\_ days.

5. Upon acceptance of a job, the employment service shall prepare an invoice which states the actual placement fee and place the invoice in the applicant's file. The placement fee shall be paid in strict accordance with terms of the limited power of attorney alluded to above and all files concerning the placement fee, limited power of attorney and mailing agreement shall be maintained in the applicant's file for a period of five years after the aforementioned power of attorney expires.

6. The estimates of applicant's daily wage rate found herein are for the purpose of computing service charge and in no way guarantee the procured employment for a year. The fee is earned by employment service when applicant accepts employment and is payable as follows:

a. No down payment is required! Payments will be 20 percent of gross pay of each payroll check until fee has been paid in its entirety.

**Guarantee**

If position employment service has obtained for applicant ends within 90 days from date of employment, regardless of reason, the service charge will be reduced to 20 percent of gross earnings of applicant. All refunds due shall be made promptly by employment service upon proper verification of earnings with employer, and in no case shall the delay exceed 14 days from applicant's request. If applicant accepts a position and then remains with his present employer, he agrees to pay 20 percent of the applicable fee for position accepted.

7. Applicant hereby stipulates and agrees to pay a penalty of 25 percent as attorney fees, plus court cost, on the earned fees due the employment service should it become necessary for the service to obtain counsel, a collection service, or resort to court action to collect same.

8. It is understood that if any section of this contract is in conflict with Louisiana Private Employment Service Law, or the rules and regulations established thereunder, then the

provisions of law, rule and regulations shall govern. The declaration that any section of this contract conflicts with the provisions of law shall not render the remainder of this contract null, and to that end the sections of this contract are declared severable.

9. (Name of Private Employment Service) agrees that it will not under any interpretation of this contract make more than one service charge for any one placement. The parties hereto acknowledge receipt of a copy of this contract; they have read and understand all provisions thereof and agree to abide by its terms and conditions.

\_\_\_\_\_  
SIGNATURE OF APPLICANT

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SOCIAL SECURITY #

\_\_\_\_\_  
SIGNATURE OF PES REPRESENTATIVE

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

**§129. Repeal of Prior Rules**

A. All Rules and Regulations heretofore adopted by the Louisiana Department of Labor, Office of Regulatory Services, for the administration of laws pertaining to Private Employment services, including but not limited to those Rules adopted April 20, 1991, are hereby repealed in their entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Regulatory Services, LR 28:

**§131. Severability Clause**

A. These rules and each of their provisions are hereby declared to be severable, one from another. If any provision or item of a rule, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the rule which can be given effect without the invalid provision, item or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Regulatory Services, LR 28:

**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? This rule will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? This rule will not affect the family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This rule will not affect the behavior or personal responsibility of children.

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 of enforcement function.

These proposed regulations are to become effective upon publication in the *Louisiana Register*. Interested parties may submit written comments to Winnie J. Pace, Labor Program Manager, Louisiana Department of Labor, P.O. Box 94094, Baton Rouge, LA 70804-9094. Comments will be accepted through the close of business on January 28, 2002. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on January 29, 2002, at 10 a.m. at the office of the Louisiana Department of Labor, 1001 North 23rd Street, Room 102, Baton Rouge, LA 70802.

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

**RULE TITLE: Private Employment Service**

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

The estimated implementation costs to the state governmental units will result from the handling of complaints, the initiation of hearings and investigations, and inspections by the Office of Regulatory Services. No additional costs will be borne by the state because the regulatory activities of the Office of Regulatory Services are currently being conducted as required by existing statutes. There will be no costs or savings to local governmental units because these proposed rules do not affect local government.

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

The estimated effect on revenue collections to the state from the collection of license fees, manager examinations fees and assessment of penalties is estimated to be between \$45,000 and \$60,000 annually; however, this revenue collection estimate does not reflect the collections or generation of any new additional dollars because the Office of Regulatory Services is already collecting this amount as provided by existing law. These proposed rules will have no effect on revenue collections of local governmental units.

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

The estimated costs to directly affected persons and non-governmental groups are as follows: bond requirements will result in a cost of \$50 to \$100; employment service investigation requires a fee of \$300; employment service licensee's and manager's/on-site consultant's examination requires a fee of \$100; and out-of-state employment services advertisement requires a fee of \$200. Additionally, a resume preparation fee of up to \$50 may be charged to the job applicant. These proposed rules do not impose any new or additional costs to the regulated community because the regulatory activities of the Office of Regulatory Services are currently being conducted as required by existing statutes.

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

Competition and employment should not be affected by these rules as such rules are designed primarily to protect the applicants.

Gary Forster  
Secretary  
0112#032

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Gaming Control Board**

Imposition of Sanctions, Enforcement Actions of the Board, Managerial Representative on Premises, and Supplier Permit Criteria (LAC 42:VII.2325, 2995; IX.2931, 2174, 4103; and XIII.2325, 2995)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:VII.2325, 2955; IX.4103; XIII.2325, and to adopt IX.2174, 2931 and XIII.2955 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 42**

**LOUISIANA GAMING**

**Part VII. Pari-Mutuel Live Racing Facility Slot Machine Gaming**

**Chapter 23. Compliance, Inspections and Investigations**

**§2325. Imposition of Sanctions**

- A. - D. ...
- E. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)
***			
<b>Chapter 29. Operating Standards</b>			
***			
2955	Managerial Representative on Premises	\$25,000	18
***			

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1919 (October 1999), amended LR 27:1321 (June 1999), LR 28:

**Chapter 29. Operating Standards**

**§2955. Managerial Representative on Premises**

A. Each licensee shall establish a position designated as Managerial Representative on Premises. A Managerial Representative on Premises shall be on the licensee's premises at all times and shall have authority to immediately act on behalf of the general manager in any matter or concern of the board or division. A description of the duties and responsibilities of the Managerial Representative on Premises shall be included in the licensee's internal controls as approved by the Division.

B. Each licensee shall provide, in writing, a current list of all Managerial Representatives on Premises. Each Managerial Representative on Premises must have a valid current gaming employee permit and must be approved by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, amended LR 27:770 (April 2000), LR 28:

**Part IX. Landbased Casino Gaming  
Subpart 1. Economic Development and Gaming Corporation**

**Chapter 21. Applications, Suitability, Permitting and Licensing**

**§2174. Supplier Permit Criteria**

A. The division shall determine whether suppliers providing goods and/or services to the casino operator or casino manager are legitimate ongoing businesses. In making such determination the division shall consider any or all of the following nonexclusive factors:

1. years in business providing specific goods and/or services procured by the casino operator or casino manager;
2. number of employees;
3. total customer base;
4. dollar volume of all sales compared to sales to the casino operator;
5. existence and nature of warehouse and storage facilities;
6. existence and number of commercial delivery vehicles owned or leased;
7. existence and nature of business offices, equipment and facilities;
8. whether the goods and/or services provided to the casino operator are brokered, and, if so, whether the actual supplier distributes through brokers as a common business practice;
9. registration with and reporting to appropriate local, state and federal authorities, as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:

**§2931. Managerial Representative On Premises**

A. The casino operator shall establish a position designated as Managerial Representative on Premises. A Managerial Representative on Premises shall be on the casino operator's premises at all times and shall have authority to immediately act on behalf of the general manager in any matter or concern of the board or division. A description of the duties and responsibilities of the Managerial Representative on Premises shall be included in the casino operator's internal controls as approved by the Division.

B. The casino operator shall provide, in writing, a current list of all Managerial Representatives on Premises. The Managerial Representative on Premises must have a valid current gaming employee permit and must be approved by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:

**Chapter 41. Enforcement Actions**

**§4103. Enforcement Actions of the Board**

- A. - B. ...
- C. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)
***			
<b>Chapter 29. Operating Standards</b>			
***			
2931	Managerial Representative on Premises	\$25,000	18
***			

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1974 (October 1999), amended LR 26:2305 (October 2000), LR 28:

**Part XIII. Riverboat Gaming**

**Chapter 23. Compliance, Inspections and Investigations**

**§2325. Imposition of Sanctions**

- A. - D. ...
- E. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)
***			
<b>Chapter 27. Accounting Regulations</b>			
***			
2713.C	Written Approval Required for Licensees own Calculation Procedure	\$5,000	12
***			
2719.B	No Cash Wagers allowed	\$10,000	18
<b>Chapter 29. Operating Standards</b>			
***			
2955	Managerial Representative on Premises	\$25,000	18
***			
<b>Chapter 31. Rules of Play</b>			
3101	Authority & Applicability		
3101.A&C	Only Authorized Games allowed: 90 day trial period	\$25,000	24
3101.B	Games must be conducted according to rules and licensee's rules of play	\$5,000	12
3103	House Rules	\$5,000	12
3105	Submission of Rules	\$25,000	24
3107	Wagers	\$10,000	18
3109	Game Limits	\$5,000	12
3111	Publication of Payoffs	\$5,000	12
3113	Periodic Payoffs	\$5,000	12
3115	Blackjack	\$5,000	12
3117	Craps	\$5,000	12
3119	Roulette	\$5,000	12
3121	Mini-Baccarat	\$5,000	12
3123	Big Six Wheel	\$5,000	12
3125	Bouree	\$5,000	12
3127	Poker	\$5,000	12
3129	Variations of Poker	\$5,000	12
3131	Red Dog	\$5,000	12
3133	Sic Bo	\$5,000	12
***			

<b>Chapter 42. Electronic Gaming Devices</b>			
4202	Approval of Gaming Devices; Applications and Procedures; Manufacturers and Suppliers	\$10,000	12
4204	Progressive EGDs	\$5,000	12
4205	Computer Monitoring Requirements of Electronic Gaming Devices	\$10,000	12
4208	Certification by Manufacturer	\$1,000	12
4211	Duplication of Program Storage Media	\$20,000	24
4212	Marking, Registration, and Distribution of Gaming Devices	\$5,000	12
4213	Approval to Sell or Dispose of Gaming Devices	\$10,000	24
4214	Maintenance of Gaming Devices	\$20,000	24
4219	Approval of Associated Equipment; Application and Procedures	\$5,000	12
***			
4317	Destruction of Counterfeit Chips and Tokens	\$5,000	12
***			
4323	Approval and Specifications for Cards	\$5,000	12
***			

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:705 (July 1995), amended LR 26:1318 (June 2000), LR 28:

**§2955. Managerial Representative On Premises**

A. Each licensee shall establish a position designated as Managerial Representative on Premises. A Managerial Representative on Premises shall be on the licensee's premises at all times and shall have authority to immediately act on behalf of the general manager in any matter or concern of the board or division. A description of the duties and responsibilities of the Managerial Representative on Premises shall be included in the licensee's internal controls as approved by the Division.

B. Each licensee shall provide, in writing, a current list of all Managerial Representatives on Premises. Each Managerial Representative on Premises must have a valid current gaming employee permit and must be approved by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:

All interested persons may contact Tom Warner, Attorney General's Gaming Division, Telephone (225) 342-2465, Fax (225) 342-4244, and may submit comments relative to these proposed rules, through January 9, 2002, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain  
Chairman

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

**RULE TITLE: Imposition of Sanctions, Enforcement  
Actions of the Board, Managerial Representative on  
Premises, and Supplier Permit Criteria**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
It is anticipated that there will be no direct implementation costs or savings to state or local government units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No effect on revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Implementation of Rules LAC 42:VII.2955, IX.2931 and XIII.2955 will not require employment of additional personnel by licensees or the casino operator, but only that certain employees be designated as the "managerial representative." LAC 42:VII.2325, IX.4103 and XII.2325 incorporate a twenty five thousand dollar (\$25,000) penalty for violation of the managerial representative rule which could potentially result in costs to licensees or the casino operator in the event of a violation.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No effect on competition or employment is estimated.

Hillary J. Crain Chairman 0112#083	Robert E. Hosse General Government Section Director Legislative Fiscal Office
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**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of the State Fire Marshal**

State Uniform Construction Code (LAC 55.V.4001)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1725 et seq., relative to the authority of the State Fire Marshal to promulgate rules and regulations and to declare the content of the State Uniform Construction Code, notice is hereby given that the State Fire Marshal intends to adopt the proposed Rule declaring that the State Uniform Construction Code shall consist of the 1997 edition of the Standard Building Code (SBC) as published by the Southern Building Code Congress International and the 1999 edition of the National Electrical Code (NEC) as published by the National Fire Protection Association.

The full text of this proposed Rule may be viewed in the Emergency Rule section of this issue of the *Louisiana Register*.

**Family Impact Statement**

- 1. A reasonable person would expect that these Rules will have no effect on the stability of the family.
- 2. A reasonable person would expect that these Rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.
- 3. A reasonable person would expect that these Rules will have no effect on the functioning of the family.
- 4. A reasonable person would expect that these Rules will have no effect on family earnings and family budget.

5. A reasonable person would expect that these Rules will have no effect on the behavior and personal responsibility of children.

6. A reasonable person would expect that these Rules will have no effect on the ability of the family to perform the function as contained in the proposed Rules.

Interested persons may submit written comments to Tony Walker, Office of State Fire Marshal, 5150 Florida Boulevard, Baton Rouge, LA. 70806. Comments will be received through January 30, 2002.

V.J. Bella  
State Fire Marshal

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

**RULE TITLE: State Uniform Construction Code**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There should be no costs to state or local government. The proposed Rule is pursuant to an Emergency Rule published December 20, 2001. The purpose of the Rule is to ratify practices that have already been undertaken by local government relative to the *State Uniform Construction Code*.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It is anticipated that there will be no direct effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There is no significant impact from adoption of the Rule. The Rule is published in order to state that the present status of the Code will remain unchanged for most or all of calendar year 2002.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No net effect on competition or employment is anticipated since all entities will be equally affected.

V.J. Bella State Fire Marshal 0112#086	Robert E. Hosse General Government Section Director Legislative Fiscal Office
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**NOTICE OF INTENT**

**Department of Revenue  
Tax Commission**

Ad Valorem Tax  
(LAC 61:V.309, 703, 907, 1103, 1503, 2503,  
2705, 2707, 3103, 3301, and 3501)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950, et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission intends to adopt, amend and/or repeal Sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 2002 (2003 Orleans Parish) tax year.

The full text of these proposed Rules may be viewed in the Emergency Rule Section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed Rules until 4 p.m., January 4, 2002, to E.W. "Ed" Leffel, Property Tax Specialist, Louisiana Tax Commission, Box 66788, Baton Rouge, LA 70896.

Malcolm B. Price, Jr.  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Ad Valorem Tax Rules and Regulations**

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

Implementation costs to the agency are the costs of preparation, reproduction and distribution of updated regulations and complete manuals. These costs are estimated at \$7,500 for the 2001-2002 fiscal year and are being reimbursed through an existing user service fee of \$15 per update set.

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

**Local Governmental Units**

These revisions will generally increase 2002 certain personal property assessments for property of similar age and condition in comparison with equivalent assessments in 2001. Composite multiplier tables for assessment of most personal property will decrease by 0.3 percent. Specific valuation tables for assessment of oil and gas wells will generally increase by an estimated 4.3 percent and drilling rigs by an estimated 98 percent. The net effect of these revisions is estimated to increase assessments by 0.5 percent and tax collections by \$2,077,000 on the basis of existing statewide average millage. However, these revisions will not necessarily effect revenue collections of local government units as any net increase or decrease in assessed valuations are authorized to be offset by millage adjustment provisions of Article VII, Section 23 of the state Constitution.

**State Governmental Units**

Under authority granted by R.S. 47:1838, the Tax Commission will receive state revenue collections generated by assessment service fees estimated to be \$334,000 from public service companies, and \$94,000 from financial institutions and insurance companies all of which are assessed by the Tax Commission.

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

The affects of these new Rules on assessments of individual items of equivalent personal property will generally be higher in 2002 than in 2001. Specific assessments will depend on the age and condition of the property subject to assessment.

The estimated costs that will be paid by affected persons as a result of the assessment and user service fees as itemized above total \$428,000 to be paid by public service property owners, financial institutions and insurance companies for 2001-2002.

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

The impact on competition and employment cannot be quantified. Inasmuch as the proposed changes in assessments and charges are relatively small, the impact is thought to be minimal.

James D. Peters  
Administrator  
0112#085

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**FITAPC Reporting Requirements (LAC 67:III.1257)**

The Department of Social Services, Office of Family Support, proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 2, Family Independence Temporary Assistance Program (FITAP).

Pursuant to the authority granted to the department by the Louisiana Temporary Assistance to Needy Families (TANF) Block Grant, the agency proposes to adopt §1257 to align the FITAP regulation for reporting income changes with the federal Food Stamp Program regulation which requires the household to report only certain increases in household members' income. The agency currently requires a FITAP household to report any change in the amount of income of any member of the household.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 2. Family Independence Temporary Assistance Program (FITAP)**

**Chapter 12. Application, Eligibility, and Furnishing Assistance**

**Subchapter B. Conditions of Eligibility**

**§1257. Reporting Requirements**

A. A FITAP household shall report any change that affects eligibility or the amount of monthly benefits. Changes in income must be reported if the household's gross monthly income changes by more than \$100 in earned income or \$25 in unearned income.

B. Changes shall be reported within 10 days of the knowledge of the change unless the FITAP household is included in a food stamp semi-annual reporting household. The FITAP household is then subject to the semi-annual household reporting requirements in accordance with §2013.

**AUTHORITY NOTE:** Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Interested persons may submit written comments on the proposed Rule by January 31, 2002 to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

**Family Impact Statement**

This Rule will have no impact on the stability and functioning of the family or on parental rights or the behavior or personal responsibility of the children and will have no impact on the budget of the affected family since reporting changes has always been a requirement of the program.

Gwendolyn P. Hamilton  
Secretary

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

**RULE TITLE: FITAPC Reporting Requirements**

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

The additional eligibility requirement at §1257 will create no significant implementation costs or savings for state or local governmental units. The minimal cost of publishing the Rule and printing policy changes is routinely included in the agency's budget.

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

There will be no impact on revenue collections for state or local governmental units.

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

There will be no resulting costs or economic benefits to any persons or non-governmental groups secondary to this proposed Rule. Although reporting changes may affect a household's grant, the amendment does not represent a change as this has always been a requirement of the program.

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

The proposed Rule will have no impact on competition and employment.

Ann Williamson  
Assistant Secretary  
0112#105

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Transportation and Development  
Office of Highways/Engineering**

Placing of Major Shopping Area Guide  
Signs on Interstate Highways  
(LAC 70:III.Chapter 4)

In accordance with the applicable provisions of the Administrative Procedures Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development intends to promulgate a Rule entitled "Placing of Major Shopping Area Guide Signs on Interstate Highways," in accordance with R.S. 48:274.3.

**Title 70**

**TRANSPORTATION**

**Part III. Highways/Engineering**

**Chapter 4. Placing of Major Shopping Area Guide  
Signs on Interstate Highways**

**§401. Definitions**

*Eligible Urban Highway* Can interstate highway.

*Gross Building Area* Square footage of usable area within a building, or series of buildings under one roof, that is considered usable by the retail businesses and the public; if a building is multi-level, this includes the square footage available on each level.

*Major Shopping Area* A geographic area that:

1. consists of 30 acres or more of land;
2. includes an enclosed retail shopping mall that contains 500,000 square feet or more of gross building area;

3. includes strip-style outdoor shopping plazas and outlet shopping centers that contain no less than 240,000 square feet of gross leasable space;

4. is located within three miles of an interchange with an eligible urban highway.

*Major Shopping Area Guide Sign* A rectangular sign panel imprinted with the name of the retail shopping area as it is commonly known to the public and containing directional information.

*Major Shopping Area Ramp Sign* A sign with the common name of the retail shopping mall, directional arrows, and/or distances placed near an eligible urban highway exit ramp.

*Retail Shopping Mall* Retail businesses located within a building, or a series of buildings, connected by a common continuous roof and walls, and enclosing and covering all inner pedestrian walkways and common areas.

*Supplemental Guide Sign* The major shopping area guide signs shall meet the applicable provisions of the Engineering Directives and Standards Memorandum for Interstate Supplemental Guide Signs Section and Manual on Uniform Traffic Control Devices. Only one supplemental guide sign assembly with a maximum of two supplemental guide sign destinations shall be allowed per exit. Other existing and new traffic generators which qualify for supplemental guide signs shall be given priority over major shopping area guide signs, including permitted and installed shopping area guide signs.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 48:274.3.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:

**§403. Specifications for Major Shopping Area  
Mainline Guide Signs**

A. A major shopping area sign shall:

1. have a green background with a white retroreflective legend and border;
2. meet the applicable provisions of the Engineering Directives and Standards Memorandum for Interstate Supplemental Guide Signs and the Manual on Uniform Traffic Control Devices;
3. have background, legend, and border material which conforms with department specifications for reflective sheeting;
4. not be illuminated externally or internally; and
5. be fabricated, erected and maintained in conformance with department specifications and fabrications details.

B. A major shopping area guide sign shall:

1. contain the name of the major shopping area as it is commonly known to the public;
2. be a maximum of 20 characters in length; and
3. contain the exit number or, if exit numbers are not applicable, other directional information.

C. Subject to approval of the department, a major shopping area guide sign shall be installed or placed:

1. independently mounted, or if approved by the department, attached to existing guide signs;
2. to take advantage of natural terrain;
3. to have the least impact on the scenic environment;
4. to avoid visual conflict with other signs within the highway right-of-way;

5. with a lateral offset equal to or greater than existing guide signs;
6. for both directions of travel on the eligible urban highway;
7. without blocking motorists' visibility of existing traffic control and guide signs; and
8. in locations that are not overhead unless approved by the department.

D. The department reserves the right to terminate permits and cover or remove any or all shopping center guide signs under the following conditions:

1. failure of a business to meet the minimum criteria;
2. failure to pay renewal fees within 30 days of invoice;
3. during roadway construction and maintenance projects; or
4. the department determines that new or existing traffic generators have a higher priority.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:274.3.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:

#### **§405. Major Shopping Area Ramp Signs.**

- A. A major shopping area ramp sign shall:
  1. have a green background with a white reflective legend and border;
  2. meet the applicable provisions of the Engineering Directives and Standards Memorandum for Interstate Supplemental Guide Signs and the Manual on Uniform Traffic Control Devices;
  3. have background, legend, and border material which conforms with department specifications for reflective sheeting;
  4. be fabricated, erected, and maintained in conformance with department specifications and fabrication details; and
  5. not be illuminated internally or externally.
- B. A major shopping area ramp sign shall contain:
  1. the name of the major shopping area as it is commonly known to the public; and
  2. directional arrows and distances.

C. Subject to approval of the department, the major shopping area ramp sign(s) may be placed along an exit ramp or at an intersection of an access road and crossroad if the retail shopping mall driveway access, buildings, or parking areas are not visible from the exit ramp, access road, or intersection.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:274.3.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:

#### **§407. Application**

A. Applications for Major Shopping Area Guide Signs shall be made utilizing the department's "Major Shopping Area Guide Sign Permit" form and shall be submitted to the Department of Transportation and Development, Traffic Services and Engineering Section, 7686 Tom Drive, Baton Rouge, LA 70806.

B. Applications will be accepted on a "first come, first served" basis. The department will notify the public 30 days in advance of the date, time and location of acceptance of

applications by publication of a notice in the newspapers statewide which are designated as "official journals."

C. All permitted major shopping area guide signs shall be fabricated and installed according to departmental standards by a private contractor employed by the permit applicant and shall be installed at locations pursuant to departmental approval and according to a Traffic Control Device Permit issued by the department. The cost of design, fabrication, and installation shall be the responsibility of the permit applicant.

D. An annual fee of \$3,600 per interchange shall be payable to the department prior to installation or renewal. The interchange fee includes \$1,200 for each mainline sign and \$600 for each ramp or trailblazer sign. This fee represents the department's cost to administer the program. A portion of the fee is also associated with maintenance of the highway right-of-way being utilized, as well as the cost associated with anticipated maintenance of the shopping center guide sign.

E. Upon completion of installation, all major shopping area guide signs and mountings become the property of the department and shall then be maintained by the department.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:274.3.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:

#### **§409. Department Contracts**

A. The department may enter into a contract or contracts for the administration, installation, maintenance, accounting and marketing of the shopping center guide sign program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:274.3.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:

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, Legal Section, Department of Transportation and Development, P. O. Box 94245, Baton Rouge, LA 70804-9245, telephone (225) 237-1359.

Kam K. Movassaghi, P.E., Ph.D.  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Major Shopping Area Guide Signs**

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

The anticipated implementation cost to the department for this rule is \$18,000 per year for the first three years.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 

The fee of \$3,600 per interchange should generate \$18,000 per year for the first three years. Currently five shopping centers in Louisiana qualify for the major shopping center guide sign permit. If each applies for a permit and pays the \$3,600 permit fee, a total of \$18,000 per year will be collected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Directly affected groups, major shopping centers, should benefit economically from the directions given to highway travelers to their establishments. The public should benefit by being better able to find these shopping destinations.

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

There should be a positive impact on competition and employment.

Kam K. Movassaghi  
Secretary  
0112#054

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Transportation and Development Office of Highways/Engineering

Control of Outdoor Advertising  
(LAC 70:I.127 and 134)

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 a Rule entitled "Regulations for Control of Outdoor Advertising," in accordance with R.S. 48:461, et seq.

#### Title 70

#### TRANSPORTATION

#### Part I. Office of the General Counsel

#### Chapter 1. Outdoor Advertisement

#### Subchapter C. Regulations for Control of Outdoor Advertising

#### §127. Definitions

**Centerline of Highway**—A line equidistant from the edges of the median separating the main-traveled ways of a divided Interstate Highway, or the centerline of the main-traveled way of a non-divided Interstate Highway or the centerline of each of the main-traveled ways of a divided highway separated by more than the normal median width or constructed on independent alignment.

**Controlled Areas**—Within urban areas, the applicable control area distance is 660 feet measured horizontally from the edges of the right-of-way along a line perpendicular to the centerline of the Interstate and/or Federal Aid Primary Systems. Outside urban areas, the control area extends beyond 660 feet to include any sign within visibility of the Interstate and/or Federal Aid Primary System.

**Erect**—to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

**Illegal Sign**—One which was erected and/or maintained in violation of State law or local law or ordinance.

**Inventory of 1966**—the record of the survey of outdoor advertising signs in existence along Interstate and Federal-Aid Primary Highways as of the date of the inventory compiled by the State Highway Department (now Department of Transportation and Development) pursuant to FHWA Instructional Memorandum No. 50-1-66 dated January 7, 1966.

**Lease**—An agreement, license, permit or easement, oral or in writing, by which permission or use of land or interest therein is given for a special purpose and which is a valid contract under the laws of Louisiana.

**Main-Traveled Way**—the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposing directions is a main-traveled way. The main-traveled way does not include such facilities as frontage roads, turning roadways, or parking areas.

**Maintenance**—means to allow to exist. The dimensions of the existing sign are not to be altered, nor shall any additions be made to it except for a change in message content. When the cost to maintain exceeds 1/3 of the "as new" replacement cost of the sign, it shall be considered new construction and shall be subject to all requirements pertaining to new construction.

**Safety Rest Area**—An area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control for the convenience of the traveling public.

**Sign**—any outdoor sign, light, display, figure, painting, drawing, message, placard, poster, billboard or other device which is designed, intended or used to advertise or inform, and any part of the advertising or informative content which is visible from any place on the main-traveled way of the Interstate or Federal Aid Primary Highway System, whether the same be a permanent or portable installation.

**Traveled Way**—the portion of a roadway designed for the movement of vehicles, exclusive of shoulders.

**Turning Roadway**—A connecting roadway for traffic turning between two intersecting portions of an interchange.

**Unzoned**—for purposes of R.S. 48:461 et seq., that no land-use zoning is in effect. The term does not include any land area which has a rural zoning classification, or which has land uses established by zoning variance, nonconforming rights recognition or special exception.

**Urban Area**—An urbanized area or an urban place as designated by the Bureau of Census having a population of five thousand or more and not within any urbanized area, within boundaries to be fixed by responsible state and local officials in cooperation with each other, subject to approval by the United States Secretary of Transportation. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of Census.

**Visible**—for purposes of R.S. 48:461 et seq., capable of being seen, whether or not readable, without visual aid by a person of normal visual acuity.

**Zoned Commercial or Industrial Areas**—those areas which are zoned for business, industry, commerce or trade pursuant to a state or local zoning ordinance or regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:187 (June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:

#### §134. Spacing of Signs

A. Interstate, Federal-Aid Primary Highways and National Highway System signs may not be located in such a manner as to obscure or otherwise physically interfere with the effectiveness of an official traffic sign, signal or device, or obstruct or physically interfere with the driver's view of approaching, merging or intersecting traffic.

B. Non-Interstate Freeways on the Federal-Aid Primary System and National Highway System (Control of Access Routes)

1. No two structures shall be spaced less than 500 feet apart.

2. Outside of incorporated villages, towns and cities, no structure may be located adjacent to or within 500 feet of an interchange, intersection at grade, or safety rest area.

C. Non-Freeway Federal-Aid Primary Highways or National Highway System

1. Outside of incorporated villages, towns and cities, no two structures shall be spaced less than 300 feet apart.

2. Within incorporated villages, towns and cities, no two structures shall be spaced less than 100 feet apart.

D. The above provisions applying to the spacing between structures do not apply to structures separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distance is visible from the highway at any one time. This exception does not apply to vegetation.

E. Official and "on-premise" signs, as defined in §139, and structures that are not lawfully maintained shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:

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 Susan Stafford, Senior Attorney, Legal Section, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245, Telephone (225) 237-1357.

Kam K. Movassaghi, P.E., Ph.D.  
Secretary

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

**RULE TITLE: Control of Outdoor Advertising**

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

There will be no implementation costs associated with this proposed rule. The principles reflected in the proposed rule have been in force and effect since the Federal Highway Beautification Act was enacted in 1965. The proposed Rule formalizes within Departmental Administrative Rules the principles contained in the Federal Act.

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

There will be no effect on revenue collections of state or local governmental units.

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

There will be no costs or benefit to directly affected persons or non-governmental groups. The outdoor advertising industry, which must adhere to these Rules, has been aware of these principals and complying with them since approximately 1965.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment. These Rules have been in effect for more than thirty years.

Kam K. Movassaghi  
Secretary  
0112#055

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Transportation and Development  
Office of the Secretary  
Crescent City Connection Division**

Transit Lane Tolls  
(LAC 70:I.515)

The Crescent City Connection Division of the Department of Transportation and Development, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., gives notice that rulemaking procedures have been instituted to amend LAC 70:I.515 to provide for access to the transit lanes on the Crescent City Connection Bridge No. 2., New Orleans, Louisiana, by eligible vehicles by means of properly mounted toll tags.

The proposed Rule Amendment is enabled by R.S. 48:1101.2 and R.S. 48:1104.1.

**Title 70**

**TRANSPORTATION**

**Part I. Office of the General Counsel**

**Chapter 5. Tolls**

**§515. Crescent City Connection Transit Lanes**

A. Intent. It is the intent of this Rule to efficiently maximize the use of the vehicular traffic lanes of the Crescent City Connection for the increased mobility of individuals and goods across the Mississippi River at New Orleans, to encourage and promote mass transit and transportation such as the use of carpools and other high-occupancy vehicle (HOV) use, while minimizing transportation-related fuel consumption and air pollution, and to provide for one-way reversible traffic flow on the transit lanes of the Crescent City Connection Bridge No. 2, and the establishment of the requirements for vehicles operating on the transit lanes.

B. Hours of Operation

1. The transit lanes of the Crescent City Connection Bridge No. 2 will be open for use by eligible vehicles in accordance with the control signals posted by the Crescent City Connection Division through the Crescent City Connection Police.

2. Generally, the transit lanes of the Crescent City Connection Bridge No. 2 will be open for use by eligible

vehicles with the traffic proceeding to the Eastbank in the morning and with the traffic proceeding to the Westbank in the afternoon.

3. However, the directional traffic flow of the transit lanes may be reconfigured by the Crescent City Connection Division in its sole discretion at such times and in such directions in order to protect the public safety during emergencies and to accommodate the public interest during special events.

C. Ineligible Vehicles. The objective of the transit lanes is to provide a free flowing facility for mass transit, high occupancy vehicles, and other eligible vehicles. Accordingly, the following vehicles are prohibited from using the transit lanes during the hours of operation even though they may satisfy the vehicle occupancy requirements:

1. trucks with more than two axles or having a gross weight capacity of one ton or more;
2. vehicles towing trailers;
3. parades;
4. funeral processions;
5. pedestrians;
6. bicycles; and
7. non-motorized vehicles.

D. Eligible Vehicles. The following vehicles are eligible to use the transit lanes during the hours of operation:

1. all public mass transit vehicles, including Regional Transit Authority buses and Jefferson Transit System buses, properly displaying a valid toll tag issued by the Crescent City Connection Division ("Public Mass Transit Vehicles");
2. school buses properly displaying a valid toll tag issued by the Crescent City Connection Division ("School Buses");
3. commercial passenger vehicles manufactured to carry seven or more passengers and properly displaying a valid toll tag issued by the Crescent City Connection Division ("HOV-7");
4. other motor vehicles carrying more than a specified number of persons and properly displaying a valid toll tag issued by the Crescent City Connection Division ("HOV-2");
5. motorcycles properly displaying a valid toll tag issued by the Crescent City Connection Division ("Authorized Motorcycles"); and
6. any vehicle certified as an Inherently Low-Emission Vehicle pursuant to Title 40, Code of Federal Regulations, and labeled in accordance with Section 88.312-93(c) of such Title, and properly displaying a valid toll tag issued by the Crescent City Connection Division ("ILEV").

E. Vehicle Occupancy Requirements. The minimum occupancy requirement for vehicles designated as HOV-2 shall be two or more persons during all hours of operation. The minimum occupancy requirement for vehicles designated as HOV-7 shall continue to be seven or more persons during all hours of operation. There are no minimum occupancy requirement for vehicles designated as Authorized Motorcycles or for vehicles designated as ILEV during all hours of operation.

F. Qualifications.

1. Eligible vehicles must be prequalified to use the transit lanes as follows.

a. Public Mass Transit Vehicles. All public mass transit vehicles properly displaying a valid toll tag issued by the Crescent City Connection Division shall continue to be

pre-qualified to access the transit lanes toll-free during the hours of operation.

i. Upon the written application of the chief administrative officer of the Regional Transit Authority and/or the Jefferson Transit System, and upon payment of the required deposit, the Crescent City Connection Division shall issue the number of automatic vehicular identification toll tags requested for use in connection with the use of the transit lanes by Public Mass Transit Vehicles.

ii. A refundable deposit of \$25 shall be charged for the issuance of each tag.

iii. Toll tags issued for Public Mass Transit Vehicles shall expire annually and shall be renewed upon advance application by the chief executive or administrative officer of the Regional Transit Authority and the Jefferson Transit System, as the case may be, attesting to the use of outstanding tags exclusively by Public Mass Transit Vehicles.

iv. It is incumbent upon the chief executive or administrative officer of the Regional Transit Authority and the Jefferson Transit System, as the case may be, to promptly report lost toll tags to the Crescent City Connection Division.

v. The use of the automatic vehicular identification toll tags provided to the Regional Transit Authority and the Jefferson Transit System shall be limited to crossings made by Public Mass Transit Vehicles. The Regional Transit Authority and the Jefferson Transit System, as the case may be, each shall be responsible for any crossing made using the automatic vehicular identification toll tag outside the scope of this regulation.

b. School Buses. All school buses properly displaying a valid toll tag issued by the Crescent City Connection Division shall continue to be authorized to access the transit lanes toll-free during the hours of operation.

i. Upon the written application of an official school system's transportation coordinator and/or bus drivers who privately own their clearly marked school buses, and upon payment of the required deposit, the Crescent City Connection Division shall issue the number of automatic vehicular identification toll tags requested for use in connection with the use of the transit lanes by School Buses. Bus drivers who privately own their clearly marked school buses must attach to their signed application an original letter from the school system they serve certifying that their bus services such school system.

ii. A refundable deposit of \$25 dollars shall be charged for the issuance of each tag.

iii. Toll tags issued for School Buses shall expire annually and shall be renewed upon advance application by the official school system's transportation coordinator or bus drivers who privately own their clearly marked school buses, as the case may be, attesting to the use of outstanding tags exclusively by School Buses.

iv. It is incumbent upon the official school system's transportation coordinator and bus drivers who privately own their clearly marked school buses, as the case may be, to promptly report lost toll tags to the Crescent City Connection Division.

v. The use of the automatic vehicular identification toll tags provided to for School Buses shall be

limited to crossings made by School Buses. Official school systems and bus drivers who privately own their clearly marked school buses, as the case may be, each shall be responsible for any crossing made using the automatic vehicular identification toll tag outside the scope of this regulation.

vi. Official school systems for purposes of this regulation are parish public school systems, private schools, and parochial schools operating in Louisiana.

c. HOV-7+. Eligible vehicles meeting the minimum occupancy requirement of seven or more persons and displaying a valid toll tag issued by the Crescent City Connection Division shall continue to be authorized to access the transit lanes toll-free during the hours of operation.

i. Upon the written application of the owner or operator of a commercial passenger vehicle manufactured to carry seven or more passengers, and upon payment of the required deposit, the Crescent City Connection Division shall issue an automatic vehicular identification toll tag requested for use in connection with the use of the transit lanes by an HOV-7 vehicle.

ii. A refundable deposit of \$25 shall be charged for the issuance of each tag.

iii. Toll tags issued for HOV-7 vehicles shall expire annually and shall be renewed upon advance application of the owner or operator, attesting to the use of outstanding tags exclusively by HOV-7 vehicles.

iv. It is incumbent upon the owner and the operator of HOV-7 vehicles to promptly report lost toll tags to the Crescent City Connection Division.

v. The use of the automatic vehicular identification toll tags provided to for HOV-7 vehicles shall be limited to crossings made by eligible vehicles meeting the minimum occupancy requirements of seven or more persons. Registered owners of HOV-7 vehicles shall be responsible for any crossing made using the automatic vehicular identification toll tag outside the scope of this regulation.

d. HOV-2+. Eligible vehicles meeting the minimum occupancy requirement of two or more persons and displaying a valid toll tag issued by the Crescent City Connection Division.

e. Authorized Motorcycles. Motorcycles displaying a valid toll tag issued by the Crescent City Connection Division.

f. ILEV. Any vehicle certified as an Inherently Low-Emission Vehicle pursuant to Title 40, Code of Federal Regulations, and labeled in accordance with, Section 88.312-93(c) of such title, and properly displaying a valid toll tag issued by the Crescent City Connection Division.

2. Toll tags on Public Mass Transit Vehicles, School Buses, HOV-7 vehicles, HOV-2 vehicles, Authorized Motorcycles, and ILEV's must be conspicuously mounted and displayed in accordance with the instructions of the Crescent City Connection Division at all times while operating on the transit lanes.

G Enforcement. During all hours of operation, the Crescent Connection Police shall supervise and actively control access to the transit lanes, and enforce vehicle eligibility, minimum occupancy requirements and toll tag display.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:25 et seq., and R.S. 48:1101.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Division of Crescent City Connection LR 23:84 (January 1997), amended LR 28:

### Family Impact Statement

The Crescent City Connection Division hereby makes these written considerations, known as the Family Impact Statement, of the following factors regarding the proposed rule amendment as required by R.S. 49:972.

1. The Effect on the Stability of the Family. This proposed rule amendment has no known impact on family stability.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. This proposed rule amendment has no known 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. This proposed rule amendment has no known effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. This proposed rule amendment has no known effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. This proposed rule amendment has no known 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. This proposed rule amendment has no applicability to family or a local government functions.

All interested persons may submit written comments on this proposed Rule Amendment through January 25, 2002, to Mr. Alan LeVasseur, P.O. Box 6297, New Orleans, LA 70174-6297. No preamble concerning the proposed Rule Amendment is available.

Alan LeVasseur  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Transit Lane Tolls

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

There will not be any material implementation costs to the State as a result of this Rule Amendment. R.S. 47:820.5 and R.S. 48:1101.2 currently allow for use of discounted toll tags for bridge crossings and for access to the transit lanes by eligible vehicles. Toll tags are currently issued to the Regional Transit Authority and the Jefferson Transit System for transit lane access. Tags will be issued to eligible school buses and commercial passenger vehicles manufactured to carry seven or more persons (HOV-7). Based on approximately 200 school buses' servicing the Orleans and Jefferson parish school systems and indicating a desire for toll tags, an estimated 50 additional school buses for private and parochial school systems that may be interested in toll tags, and approximately 50 HOV-7 vehicles currently registered, it is anticipated that 300 new toll tags would need to be purchased.

Although the Crescent City Connection Division currently budgets the costs of toll tags from self-generated agency funds, the estimated implementation costs would be approximately \$9,900 based on 300 additional tags at \$33 per toll tag.

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

Free passage on the transit lanes of the Crescent City Connection by public mass transit vehicles, school buses and HOV-7 vehicles is currently provided for. The proposed Rule Amendment merely requires that such free passage to be made by toll tag. Accordingly, there will be no effect on revenue collections.

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

A refundable deposit of \$25 for each non-revenue toll tag requested will be imposed. The costs of such deposits to each of the effected transit systems, school systems and HOV-7 operators will be minimal. Local transit systems have already been impacted by approximately \$3,150, based on 126 public

mass transit vehicles' currently utilizing the transit lanes. It is anticipated that local school systems and independent bus drivers will be impacted by approximately \$7,500 as a group, based on 300 school buses anticipated to utilize the transit lanes by means of toll tags, and that HOV-7 operators will be impacted by approximately \$1,250, based on 50 HOV-7 vehicles' currently utilizing the transit lanes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Kenneth E. Pickering  
General Counsel  
0112#065

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office