

Notices of Intent

NOTICE OF INTENT

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

START Savings Program
(LAC 28:VI.107, 305, 309, and 311)

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

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972 (ST0671NI).

The text of this proposed Rule may be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed changes (ST0671NI) until 4:30 p.m., June 12, 2006, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **START Savings Program**

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

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

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

Revenue collections of state and local governments will not be affected by the proposed changes.

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

There are no estimated effects on economic benefits to directly affected persons or non-governmental groups resulting from these measures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

George Badge Eldredge
General Counsel
0605#006

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Clean Air Mercury Rule Incorporation by Reference
(LAC 33:III.3003)(AQ257ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.3003 (Log #AQ257ft).

This proposed rule is identical to federal regulations found in 70 FR 28606-28700 (May 18, 2005), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. 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 rulemaking incorporates by reference the federal Clean Air Mercury Rule (CAMR) and provides for participation in the EPA-administered cap-and-trade program for annual mercury emissions. The federal rule seeks to reduce mercury emissions from coal-fired electrical generating units (EGUs). The federal EGU mercury cap-and-trade program for coal-fired EGUs was promulgated on May 18, 2005, and is closely based upon the highly successful Acid Rain Program. States have until November 2006 to submit to EPA their corresponding EGU emissions control plan based upon Section 111 of the Clean Air Act Amendments of 1990.

Mercury is a metal that exists naturally in the environment around the world. It has been demonstrated that mercury can be transported globally in the atmosphere. This mercury transport occurs from both natural and man-made sources. Emissions from coal-fired EGUs in the United States have been determined to be a significant source of mercury. Although there are numerous sources of mercury exposure in homes, industries, and nature, some of the most significant exposure risks occur when the mercury in the atmosphere eventually settles to the ground and finds its way into lakes, rivers, and streams. This mercury in the bottom sediments of some rivers and lakes undergoes methylation, a process carried out by bacteria in certain conditions. Methyl mercury then gets into the food chain and results in mercury exposure to persons who eat fish. There are numerous fish consumption advisories in Louisiana. Human exposure to

mercury can affect the nervous system and the function of several internal organs, such as the brain and the kidneys. Young children, especially the unborn, developing fetus, are particularly susceptible to the effects of mercury.

The federal rule establishes mercury limits from new and existing coal-fired EGUs and creates a market based cap-and-trade program that will reduce EGU emissions of mercury in two separate phases, in the years 2010 and 2018. Each state receives a mercury budget for each year. Louisiana's budget is 0.601 tons of mercury for years 2010-2017 and 0.237 tons of mercury thereafter. Each state can adopt any methodology to allocate their mercury allowances. The department proposes to adopt the federal model rule for mercury allowance allocations that are based upon baseline heat input. It also proposes to adopt the new source set-aside of five percent of the allowances in Phase 1, and three percent in Phase 2. New coal-fired EGUs will have to meet stringent new source performance standards in addition to being subjected to the caps. While individual states do have the authority to develop an alternative rule different from the federal cap-and-trade program, the department has concluded that alternatives to the EPA program which produce earlier and deeper reductions of mercury may not be technologically feasible and that rules which require all coal-fired EGUs to install mercury controls may not be cost effective, possibly subjecting the electricity rate payer to higher than necessary rates without a corresponding decrease in state-wide mercury deposition levels. The basis and rationale for this proposed rule are to mirror the federal regulations for CAMR.

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

Subchapter A. Incorporation by Reference

§3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60

A. Except for 40 CFR Part 60, Subpart AAA, and as modified in this Section, Standards of Performance for New Stationary Sources, published in the *Code of Federal Regulations* at 40 CFR Part 60, July 1, 2005, are hereby incorporated by reference as they apply to the state of Louisiana. Also incorporated by reference are revisions to 40 CFR Part 60, Subparts A, B, Da, and HHHH as promulgated as the Clean Air Mercury Rule on May 18, 2005, in the *Federal Register*, 70 FR 28606-28700; and Subpart EEEE, "Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or

Reconstruction is Commenced on or After June 16, 2006," and Subpart FFFF, "Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004," promulgated on December 16, 2005, in the *Federal Register*, 70 FR 74870-74924.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:

A public hearing will be held on June 28, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ257ft. Such comments must be received no later than June 28, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ257ft. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Baratavia Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

0605#016

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Major Stationary Source/Major Modification Emission
Thresholds for Baton Rouge Ozone Nonattainment Area
(LAC 33:III.111, 504, 509, 607, 709, and 711)(AQ253)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.111, 504, 509, 607, 709, and 711 (Log #AQ253).

The department promulgated an emergency rule on June 15, 2005, to address rule revisions needed for transition from the 1-hour ozone National Ambient Air Quality Standard (NAAQS) to the 8-hour ozone NAAQS. The 1-hour ozone standard was revoked by the EPA in the federal 8-hour ozone implementation rule. The revocation of the 1-hour ozone standard was effective June 15, 2005. Under the 1-hour ozone standard the five-parish Baton Rouge ozone nonattainment area was classified as severe. Under the 8-hour ozone standard the Baton Rouge area is classified as marginal with an attainment date of June 15, 2007. To continue efforts toward attainment of the 8-hour ozone standard in the Baton Rouge area, the department is proposing to make permanent the revisions in LAC 33:III.Chapters 5 and 6 to the major stationary source threshold values, the major modification significant net increase values, and the minimum offset ratios for the Baton Rouge nonattainment area at values more in line with those listed for a classification of serious than for the marginal classification. These revisions include changing references to the ozone standard from the 1-hour standard to the 8-hour standard; amending text to reflect the NSR requirements applying to large sources in nonattainment areas for the 8-hour standard; including nitrogen oxides as a precursor for ozone; including the current fine particle (PM_{2.5}) NAAQS; and amending Tables 1 and 1a in LAC 33:III.711 to reflect the 8-hour ozone standard. Without this action the Baton Rouge nonattainment area, which is classified as marginal under the 8-hour ozone standard, would revert to marginal levels in Table 1 of LAC 33:III.504. This rule will promulgate in LAC 33:III.504.M, the thresholds set forth in Emergency Rule AQ253E that were effective as of June 15, 2005. The proposed rule revisions will constitute a proposed revision to the Louisiana State Implementation Plan (SIP) for air quality. The basis and rationale for this rule are to continue efforts toward attainment of the ozone standard and cleaner air in the five-parish Baton Rouge area.

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 1. General Provisions

§111. Definitions

A. When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below.

Ozone Exceedance—a daily maximum 8-hour average ozone measurement that is greater than the value of the standard.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:777 (August 1991), LR 21:1081 (October 1995), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:808 (May 2006), LR 32:

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

A. ...

1. For an area that is designated nonattainment for the ozone national ambient air quality standard (NAAQS), VOC and NO_x are the regulated pollutants under this Section. VOC and NO_x emissions shall not be aggregated for purposes of determining major stationary source status and significant net emissions increases.

2. Except as specified in Subsection M of this Section, the potential to emit of a stationary source shall be compared to the major stationary source threshold values listed in Subsection L.Table 1 of this Section to determine whether the source is major.

3. Except as specified in Subsection M of this Section, the emissions increase that would result from a proposed modification, without regard to project decreases, shall be compared to the trigger values listed in Subsection L.Table 1 of this Section to determine whether a calculation of the net emissions increase over the contemporaneous period must be performed.

a. - d. ...

4. Except as specified in Subsection M of this Section, the net emissions increase shall be compared to the significant net emissions increase values listed in Subsection L.Table 1 of this Section to determine whether a nonattainment new source review must be performed.

5. - 7. ...

8. For applications deemed administratively complete in accordance with LAC 33:III.519.A on or after December 20, 2001 and prior to June 23, 2003, and for which the nonattainment new source review (NNSR) permit was issued in accordance with Subsection D of this Section on or before June 14, 2005, the provisions of this Section governing serious ozone nonattainment areas applied to VOC and NO_x

increases. For applications deemed administratively complete in accordance with LAC 33:III.519.A on or after June 23, 2003, and for which the NNSR permit was issued in accordance with Subsection D of this Section on or before June 14, 2005, the provisions of this Section governing severe ozone nonattainment areas applied to VOC and NO_x increases.

B. - D.4. ...

5. Except as specified in Subsection M of this Section, emission offsets shall provide net air quality benefit, in accordance with offset ratios listed in Subsection L. Table 1 of this Section, in the area where the NAAQS for that pollutant is violated.

D.6. - F. ...

1. All emission reductions claimed as offset credit shall be from decreases of the same pollutant or pollutant class (e.g., VOC) for which the offset is required. Interpollutant trading, for example using a NO_x credit to offset a VOC emission increase, is not allowed. Except as specified in Subsection M of this Section, offsets shall be required at the ratio specified in Subsection L. Table 1 of this Section.

2. - 7.c. ...

8. Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours below baseline levels may be generally credited if such reductions are surplus, permanent, quantifiable, and federally enforceable, and if:

a. the shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For purposes of this Subparagraph, the administrative authority may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emissions unit (However, in no event may credit be given for shutdowns that occurred before August 7, 1977.);

b. the shutdown or curtailment occurred on or after the date the permit application or application for emission reduction credits (ERCs) was filed; or

c. the applicant can establish that the proposed new emissions unit is a replacement for the shutdown or curtailed emissions unit.

F.9. - K. Visibility Impairment. ...

L. Table 1—Major Stationary Source/Major Modification Emission Thresholds

Pollutant	Major Stationary Source Threshold Values (tons/year)	Major Modification Significant Net Increase (tons/year)	Offset Ratio Minimum
Ozone VOC/NO _x		Trigger Values	
Marginal	100	40(40) ²	1.10 to 1
Moderate	100	40(40) ²	1.15 to 1
Serious	50	25 ³ (5) ⁴	1.20 to 1 w/LAER or 1.40 to 1 internal w/o LAER

Pollutant	Major Stationary Source Threshold Values (tons/year)	Major Modification Significant Net Increase (tons/year)	Offset Ratio Minimum
Severe	25	25 ³ (5) ⁴	1.30 to 1 w/LAER or 1.50 to 1 internal w/o LAER
Extreme	10	Any increase	1.50 to 1
CO			
Moderate	100	100	>1.00 to 1
Serious	50	50	>1.00 to 1
SO ₂	100	40	>1.00 to 1
PM ₁₀ ¹			
Moderate	100	15	>1.00 to 1
Serious	70	15	>1.00 to 1
Lead	100	0.6	>1.00 to 1

¹The requirements of LAC 33:III.504 applicable to major stationary sources and major modifications of PM₁₀ shall also apply to major stationary sources and major modifications of PM₁₀ precursors, except where the administrator determines that such sources do not contribute significantly to PM₁₀ levels that exceed the PM₁₀ NAAQS in the area.

²Consideration of the net emissions increase will be triggered for any project that would increase emissions by 40 tons or more per year, without regard to any project decreases.

³For serious and severe ozone nonattainment areas, the increase in emissions of VOC or NO_x resulting from any physical change or change in the method of operation of a stationary source shall be considered significant for purposes of determining the applicability of permit requirements, if the net emissions increase from the source equals or exceeds 25 tons per year of VOC or NO_x.

⁴Consideration of the net emissions increase will be triggered for any project that would increase VOC or NO_x emissions by five tons or more per year, without regard to any project decreases, or for any project that would result in a 25 ton or more per year cumulative increase in emissions of VOC within the contemporaneous period or of NO_x for a period of five years after the effective date of the rescission of the NO_x waiver, and within the contemporaneous period thereafter.

VOC= volatile organic compounds

NO_x = oxides of nitrogen

CO = carbon monoxide

SO₂ = sulfur dioxide

PM₁₀= particulate matter of less than 10 microns in diameter

M. Notwithstanding the parish's nonattainment status with respect to the 8-hour national ambient air quality standard (NAAQS) for ozone, the provisions of this Subsection shall apply to sources located in the following parishes: Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge.

1. For an existing stationary source with a potential to emit of 50 tons per year or more of VOC or NO_x, consideration of the net emissions increase will be triggered for any project that would:

a. increase emissions of VOC or NO_x by 25 tons per year or more, without regard to any project decreases;

b. increase emissions of the highly reactive VOC (HRVOC) listed below by 10 tons per year or more, without regard to any project decreases:

- i. 1,3-butadiene;
- ii. butenes (all isomers);
- iii. ethylene;
- iv. propylene.

2. The following sources shall provide offsets for any net emissions increase:

- a. a new stationary source with a potential to emit of 50 tons per year or more of VOC or NO_x;
- b. an existing stationary source with a potential to emit of 50 tons per year or more of VOC or NO_x with a significant net emissions increase of VOC, including HRVOC, or NO_x of 25 tons per year or more.

3. The minimum offset ratio for an offset required by Paragraph M.2 of this Section shall be 1.2 to 1.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 30:2801 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 31:3123, 3155 (December 2005), LR 32:

§509. Prevention of Significant Deterioration

A. - A.5.

B. Definitions. For the purpose of this Section, the terms below shall have the meaning specified herein as follows.

Major Modification—

- a. ...
- b. Any significant emissions increase from any emissions unit or net emissions increase at a major stationary source that is significant for volatile organic compounds (VOCs) or nitrogen oxides (NO_x) shall be considered significant for ozone.

c. - d. ...

Major Stationary Source—

- a. - c. ...
- d. a major source that is major for volatile organic compounds or nitrogen oxides shall be considered major for ozone;

e. - Table A. ...

Regulated NSR Pollutant—

- a. any pollutant for which a national ambient air quality standard has been promulgated and any constituents or precursors for such pollutants identified by the administrative authority (e.g., volatile organic compounds and nitrogen oxides are precursors for ozone);

b. - d. ...

Significant—

- a. in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant	Emission Rate
Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
Particulate matter	25 tpy of particulate emissions
	15 tpy of PM ₁₀ emissions
Ozone	40 tpy of volatile organic compounds or nitrogen oxides
Lead	0.6 tpy
Fluorides	3 tpy
Sulfuric acid mist	7 tpy
Hydrogen sulfide (H ₂ S)	10 tpy
Total reduced sulfur (including H ₂ S)	10 tpy
Reduced sulfur compounds (including H ₂ S)	10 tpy
Municipal waste combustor organics ¹	0.0000035 tpy
Municipal waste combustor metals ²	15 tpy
Municipal waste combustor acid gases ³	40 tpy
Municipal solid waste landfills emissions ⁴	50 tpy

¹Measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.

²Measured as particulate matter.

³Measured as sulfur dioxide and hydrogen chloride.

⁴Measured as nonmethane organic compounds.

b. - c. ...

C. - I.5. ...

- a. the emissions increase of the pollutant from a new stationary source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following amounts:

Carbon monoxide	575 µg/m ³	8-hour average
Nitrogen dioxide	14 µg/m ³	annual average
Particulate matter	10 µg/m ³ of PM ₁₀	24-hour average
Sulfur dioxide	13 µg/m ³	24-hour average
Ozone	No <i>de minimis</i> air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds or nitrogen oxides subject to PSD would require the performance of an ambient impact analysis including the gathering of ambient air quality data.	
Lead	0.1 µg/m ³	3-month average
Fluorides	0.25 µg/m ³	24-hour average
Total reduced sulfur	10 µg/m ³	1-hour average
Hydrogen sulfide	0.2 µg/m ³	1-hour average
Reduced sulfur compounds	10 µg/m ³	1-hour average

I.5.b. - AA.15.b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999), amended by the Office of Environmental Assessment,

Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2234 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 31:3135, 3156 (December 2005), LR 32:

Chapter 6. Regulations on Control of Emissions through the Use of Emission Reduction Credits Banking

§607. Determination of Creditable Emission Reductions

A. - C. ...

1. If the design value for the nonattainment area is above the national ambient air quality standard (NAAQS) for ozone, the department shall compare the current total point-source emissions inventory for the modeled parishes to the base case inventory, except that, beginning with the 2005 emissions inventory, this comparison shall be made to the base line inventory.

2. - 4.a. ...

i. if the design value for the nonattainment area is above the NAAQS for ozone and the current total point-source inventory for the modeled parishes exceeds the base case inventory or base line inventory, as appropriate per Paragraph C.1 of this Section, baseline emissions shall be the lower of actual emissions, adjusted allowable emissions determined in accordance with Paragraph C.3 of this Section, or emissions attributed to the stationary point source(s) in question in the base case or base line inventory, as appropriate; or

ii. if the design value for the nonattainment area is not above the NAAQS for ozone or the current total point-source inventory for the modeled parishes does not exceed the base case inventory or base line inventory, as appropriate per Paragraph C.1 of this Section, baseline emissions shall be the lower of actual emissions or adjusted allowable emissions determined in accordance with Paragraph C.3 of this Section; and

C.4.b. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 28:302 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Chapter 7. Ambient Air Quality

§709. Measurement of Concentrations—PM₁₀, PM_{2.5}, Sulfur Dioxide, Carbon Monoxide, Atmospheric Oxidants, Nitrogen Oxides, and Lead

A. PM₁₀, PM_{2.5}, sulfur dioxide, carbon monoxide, atmospheric oxidants, nitrogen oxides, and lead shall be measured by the methods listed in LAC 33:III.711.C, Table 2 or by such other equivalent methods approved by the department. The publications or their replacements listed in LAC 33:III.711.C, Table 2 are incorporated as part of these regulations by reference.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR

14:348 (June 1988), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

§711. Tables 1, 1a, 2—Air Quality

A. Table 1. Primary Ambient Air Quality Standards

Table 1. Primary Ambient Air Quality Standards		
Air Contaminant	Maximum Permissible Concentration	
PM ₁₀	50 µg/m ³	(Annual arithmetic mean)
	150 µg/m ³	(Maximum 24-hour concentration not to be exceeded more than once per year)
PM _{2.5}	15.0 µg/m ³	(Annual arithmetic mean)
	65 µg/m ³	24-hour
Sulfur Dioxide (SO ₂)	80 µg/m ³	or 0.03 ppm (Annual arithmetic mean)
	365 µg/m ³	or 0.14 ppm (Maximum 24-hour concentration not to be exceeded more than once per year)
Carbon Monoxide (CO)	10,000 µg/m ³	or 9 ppm (Maximum 8-hour concentration not to be exceeded more than once per year)
	40,000 µg/m ³	or 35 ppm (Maximum 1-hour concentration not to be exceeded more than once per year)
Ozone	0.08 ppm daily maximum 8-hour average	The standard is met at an ambient air monitoring site when the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentrations is less than or equal to 0.08 ppm, as determined in accordance with 40 CFR 50, Appendix 1.
Nitrogen Dioxide (NO ₂)	100 µg/m ³	(0.05 ppm) (Annual arithmetic mean)
Lead	1.5 µg/m ³	(Maximum arithmetic mean averaged over a calendar quarter)

1. - 2. ...

B. Table 1a. Secondary Ambient Air Quality Standards

Table 1a. Secondary Ambient Air Quality Standards		
Air Contaminant	Maximum Permissible Concentration	
PM ₁₀	50 µg/m ³	(Annual arithmetic mean)
	150 µg/m ³	(Maximum 24-hour concentration not to be exceeded more than once per year)
PM _{2.5}	15.0 µg/m ³	(Annual arithmetic mean)
	65 µg/m ³	24-hour
Sulfur Dioxide (SO ₂)	1,300 µg/m ³	(Maximum 3-hour concentration not to be exceeded more than once per year)
Carbon Monoxide (CO)	10,000 µg/m ³	or 9 ppm (Maximum 8-hour concentration not to be exceeded more than once per year)
	40,000 µg/m ³	or 35 ppm (Maximum 1-hour concentration not to be exceeded more than once per year)

Air Contaminant	Maximum Permissible Concentration	
Ozone	0.08 ppm daily maximum 8-hour average	The standard is met at an ambient air monitoring site when the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentrations is less than or equal to 0.08 ppm, as determined in accordance with 40 CFR 50, Appendix I.
Nitrogen Dioxide (NO ₂)	100 µg/m ³	(0.05 ppm) (Annual arithmetic mean)
Lead	1.5 µg/m ³	(Maximum arithmetic mean averaged over a calendar quarter)

1. - 2. ...

C. Table 2. Ambient Air—Methods of Contaminant Measurement

Air Contaminant	Sampling Interval	Analytical Method
PM ₁₀	24 hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, Appendix J.
PM _{2.5}	24 hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, Appendix L.
Sulfur Dioxide	24 hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, Appendix A.
	Continuous	Any method complying with reference or equivalent methods in Title 40, Code of Federal Regulations, Part 53, Subpart B.
Total Oxidants	Continuous	Any method complying with reference or equivalent methods in Title 40, Code of Federal Regulations, Part 50, Appendix D, and Part 53, Subpart B.
Carbon Monoxide	Continuous	Any method complying with reference or equivalent methods in Title 40, Code of Federal Regulations, Part 50, Appendix C, and Part 53, Subpart B.
Nitrogen Dioxide	24 hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, Appendix F.
Lead	24 hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, Appendix G.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

A public hearing will be held on June 28, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. The

hearing will also be for the revision to the State Implementation Plan (SIP) to incorporate this proposed rule. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ253. Such comments must be received no later than July 5, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ253. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Major Stationary Source/Major
Modification Emission Thresholds for Baton Rouge
Ozone Nonattainment Area**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no expected implementation costs or savings to state or local governmental units by the proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units by the proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs or significant economic benefits to directly affected persons or non-governmental groups by the proposed rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition or employment by the proposed rule.

Herman Robinson, CPM
Executive Counsel
0605#015

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Office of Facility Planning And Control

Capital Improvements Projects Procedure Manual (LAC 34:III.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the provisions of R.S. 39:121, The Division of Administration, Facility Planning and Control hereby gives notice of its intent to amend Title 34, Government Contracts, Procurement and Property Control, Part III, Facility Planning and Control, Chapter 1, Capital Improvement Projects, Subchapter A., Procedure Manual. These rule changes are the result of a review by Facility Planning and Control of the potential liability assumed by the state of Louisiana by taking responsibility for geotechnical investigation, topographic surveys and other site surveys by having them prepared and providing them to the designer. The increasing use of these surveys to make design decisions that are properly part of the designer's responsibility has increased the potential liability for the state and prompted this change. The change will make geotechnical investigation, topographic surveys and other site surveys part the designer's contract and make him fully responsible for them. He will be reimbursed by the owner for the direct cost.

This review also indicated the need to clarify the language regarding how the designer's compensation is affected by changes in the construction cost estimate and change orders. The changes will reduce the potential for unwarranted charges.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part III. Facility Planning and Control

Chapter 1. Capital Improvement Projects

Subchapter A. Procedure Manual

§101. Condition of the Contract

A. The Louisiana Capital Improvement Projects Procedure Manual for Design and Construction, 20064 Edition, herein referred to as the "procedure manual" or the "manual" and any amendments thereto, as published by Facility Planning and Control, shall be a part and condition of the contract between owner and designer, herein referred to as the "contract."

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:473 (September 1982), amended LR 11:849 (September 1985), LR 31:1076 (May 2005), LR 32:

§105. Owner-User Agency Responsibilities

A. - C.1.d. ...

2. The owner shall reimburse the designer, in addition to the fee, the cost of site surveys described in §113.A.1.d when deemed necessary by the designer and agreed to by the owner. These shall include, but not be limited to, a topographic survey prepared by a registered land surveyor and a geotechnical investigation prepared by a professional engineer.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:473 (September 1982), amended LR 11:849 (September 1985), LR 31:1076 (May 2005), LR 32:

§107. Construction Budget (AFC)

A. - B. ...

C.1. At the completion of the program completion phase, as stated hereinafter in §113, the designer shall determine whether the funds available for construction are realistic for the project when compared with the completed program. At this point, or at any other submissions of probable construction cost by the designer, if such probable construction cost is in excess of funds Available for Construction (AFC), the owner shall have the option to:

a. instruct the user agency to collaborate with the designer to revise the program so that it will be within the funds available for construction; such program revisions shall be done without additional compensation to the designer, except as provided in §113.C.4, hereinafter;

b. provide additional funds to increase the funds available for construction (AFC); or

c. abandon or suspend the project.

2. Any adjustment in the funds available for construction during design shall include an appropriate adjustment in the fee.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:474 (September 1982), amended LR 11:850 (September 1985), LR 31:1076 (May 2005), LR 31:

§109. Compensation

A. - B.1. ...

2. Routine change orders which involve a small amount of effort will not involve extra compensation. Before the designer prepares a change order for which he feels he is entitled to extra compensation due to the extra effort involved, he shall so notify the owner and secure owner's approval to proceed with the change order. When final payment is made to the designer, all such change orders will be reviewed by the owner and the designer's contract will be amended to reflect extra compensation for the change orders which the owner has determined merit additional fee. The fee will be computed by increasing the contract award by the amount of change orders that qualify for additional fee as described above and recalculating the fee.

B.3. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:474 (September 1982), amended LR 11:850 (September 1985), LR 32:

§113. Designer's Services

A. - A.1.c. ...

d. The designer shall, as part of this contract, provide all geotechnical investigations, topographic surveys and other site related information necessary for the design of the project. The designer shall obtain one or more proposals

from registered land surveyors and geotechnical engineers when required for the project and recommend to the owner for his approval. The owner will contract directly for such services or may, with the agreement of the designer, include them in the designer's contract to be paid separately from the fee.

A.1.e. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:475 (September 1982), amended LR 11:851 (September 1985), LR 31:1079 (May 2005), LR 32:

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earnings and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed rule.

Interested persons may submit comments to William Morrison, Facility Planning and Control, P.O. Box 94095, Baton Rouge, LA 70804-9095. Written comments will be accepted through June 10, 2006.

Jerry Jones
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Capital Improvements Projects Procedure Manual

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

The proposed revisions will make the following two changes in the document, neither of which involve significant cost changes except that there is a potential cost avoidance associated with placing the responsibility for the site information with the designer.

1. Currently the Louisiana Capital Improvement Projects Procedure Manual for Design and Construction requires the owner (the State of Louisiana) to provide to the designers contracted for the design of construction projects geotechnical, topographic and other site information. This rule change will require the designer to provide these services as part of his contract. The State currently bears the cost of these services

and under the revised rule will continue to pay by reimbursing the designer for the cost. There will be no increase in cost to the State but the responsibility for the information will be transferred to the designer.

There will be a decrease in workload due to the reduction in the number of contracts that must be prepared by Facility Planning and Control.

There is also a significant potential for cost avoidance by placing this responsibility on the designer. This is a potential cost avoidance that depends on the performance of the designers and is within their control. The amount of such costs is, therefore, difficult to predict and could run from zero to hundreds of thousands of dollars.

2. Language has been added to make it clear that the designer's fee will be adjusted if the construction cost is adjusted during design. Language has also been added to make it clear that change orders that qualify for an additional fee will be compensated according to the fee percentage stated in the contract. These changes do not change the fee but ensure that it is clear how the designer's fee will be adjusted or not adjusted if the amount available for construction (AFC) is changed during design or if the designer is entitled to payment for preparing change orders.

This will not result in any specific cost increase or savings to the State but will help prevent the possibility of unnecessary and unwarranted costs due to unclear language in the documents. Such potential cost would be in the one to ten thousand dollar range on a per contract basis should they occur. There is a low probability that they might occur but it was deemed prudent not to leave open this possibility.

There may be some cost effect on local governmental units because many of them use the Louisiana Capital Improvement Projects Procedure Manual for Design and Construction. However, this is entirely at their discretion and not encouraged by Facility Planning and Control. The State has no control over this and has no way to predict or estimate the cost of this use.

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

There are no revenues involved in this activity and there will be no effect on revenue collections.

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

1. There will be substantial potential costs to the private sector designers that provide design services for the office of Facility Planning and Control. Failure to do due diligence in procuring geotechnical investigations and/or topographic surveys can result in costly design errors and this rule change moves the responsibility for this from the State to the designers. This is a potential cost that depends on the performance of the designers and is within their control. The amount of such costs is, therefore, difficult to predict and could run from zero to hundreds of thousands of dollars.

2. This will ensure that no unwarranted economic benefits accrue to the private sector designers that provide design services for the office of Facility Planning and Control.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition will not be affected. Designers are currently required to obtain proposals for the geotechnical investigations and topographic surveys and to make recommendations the State for procurement. They will be required to use the same method of selection with the exception that they will now issue the contract to the firm with the best proposal instead of the State doing so.

Jerry Jones
Director
0605#078

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Office of Risk Management

Reporting of Claims
(LAC 37:I.Chapter 1-25)

Under the authority of R.S. 39:1535, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Risk Management has repealed LAC 37, Part I Structured Settlements, which is only relevant to political subdivisions of the state of Louisiana and not subject to the Louisiana Office of Risk Management's rules and regulations. Additional changes were made to renumber the existing Sections in accordance with LAC uniform system of codification.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Title 37 INSURANCE

Part I. Risk Management

Subpart 1. Structured Settlements

Chapter 1. Definitions

§101. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:234 (April 1986), amended LR 31:56 (January 2005), repealed LR 32:

Chapter 3. Structured Settlement Services

§301. Qualifying Criteria for Acceptable Structured Settlement Firms

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:235 (April 1986), amended LR 12:832 (December 1986), LR 16:614 (July 1990), LR 17:1206 (December 1991), LR 31:57 (January 2005), repealed LR 32:

§303. Application, Investigation, Verification, List-Keeping of Qualified Structured Settlement Firms

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:235 (April 1986), amended LR 31:58 (January 2005), repealed LR 32:

§305. Grounds for Removal from List

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management,

LR 12:235 (April 1986), amended LR 31:58 (January 2005), repealed LR 32:

§307. Selection of Structured Settlement Firm for Structured Settlement Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:236 (April 1986), amended LR 12:832 (December 1986), LR 31:58 (January 2005), repealed LR 32:

§309. Qualified Plan Offerors and Providers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5114 and 39:1527.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:236 (April 1986, amended LR 12:832 (December 1986), LR 16:615 (July 1990), LR 17:1207 (December 1991), LR 31:59 (January 2005), repealed LR 32:

§311. Selection of Plan Providers from among Plan Offerors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:236 (April 1986), amended LR 31:59 (January 2005), repealed LR 32:

§313. Disqualification of Plan Offerors and Providers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:237 (April 1986), amended LR 31:60 (January 2005), repealed LR 32:

Chapter 5. Insurance Policies, Trust Contracts, and Other Evidence of Obligations Implementing Structured Payment Plans

§501. Depository for Annuities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:237 (April 1986), amended LR 31:61 (January 2005), repealed LR 32:

Chapter 7. Administrative Procedures

§701. Dissatisfaction with Structured Settlement Firms and/or Plan Providers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:237 (April 1986), amended LR 31:61 (January 2005), repealed LR 32:

§703. Appeals from Decisional Acts of the Office of Risk Management

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management,

LR 12:237 (April 1986), amended LR 31:61 (January 2005), repealed LR 32:

§705. Appeals from the Commissioner

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:238 (April 1986), amended LR 31:61 (January 2005), repealed LR 32:

Editor's Note: The following Sections have been renumbered in accordance with the LAC uniform system of codification.

Subpart 1. Insurance and Related Matters

Chapter 1. Underwriting

§101. Underwriting

A. All coverages which are self-insured by the Office of Risk Management are mandatory for all Louisiana state departments, agencies, boards, and commissions.

B. If any department, agency, board, or commission requires or wishes to procure any insurance coverages which are not written through the Louisiana Self Insurance Program, request is to be made to the Office of Risk Management to procure said coverage. It is the responsibility of the department, agency, board, or commission to provide the underwriting information required to procure or underwrite the risk.

C. All leases for real and movable property (including vehicles) which are entered into by any state department, agency, board, or commission are to be forwarded to the Office of Risk Management for review in compliance of insurance requirements.

D. All inquiries regarding interpretation of insurance coverages are to be addressed to the Underwriting Unit and are to be in a written form.

E. Boiler and machinery equipment at new locations are to be reported to the Underwriting Unit.

F. Builder's risk projects are to be reported to the Underwriting Unit when the construction contract has been awarded or the "Notice to Proceed" has been issued.

G. All newly constructed state-owned buildings are to be reported to the Underwriting Unit upon acceptance/completion.

H. All newly acquired state-owned aircraft are to be reported to the Underwriting Unit immediately but in no event more than 30 days after acquisition. All newly leased or borrowed aircraft are to be reported to the Underwriting Unit immediately but in no event more than 30 days after possession or lease.

I. Any newly acquired, constructed, leased, or borrowed airport or heliport facilities are to be reported to the Underwriting Unit before coverage will be effective.

J. All newly acquired state-owned marine vessels which are over 26 feet in length are to be reported to the Underwriting Unit immediately but in no event more than 30 days after acquisition. All newly leased or borrowed marine vessels which are over 26 feet in length are to be reported to the Underwriting Unit immediately but in no event more than 30 days after possession or lease.

K. Applications for new crime policies are to be submitted to the Underwriting Unit. Coverage does not become effective until the insurance company has accepted the new risk.

L. All departments, agencies, boards, and commissions are to provide the name, address, telephone number, and job title of the following:

1. the department, agency, board, or commission head;
2. the person(s) to receive insurance premium billings;
3. the safety coordinator or person(s) responsible for loss prevention matters;
4. the person(s) responsible for handling and disposition of claims matters;
5. the person(s) responsible for reporting exposure information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:19 (January 1987), amended LR 31:61 (January 2005), LR 32:

Chapter 3. Auditing and Statistics

§301. Auditing and Statistics

A. The exposure data requested by the Office of Risk Management (ORM) are to be submitted in a timely manner and in the form specified. The exposures may include, but are not limited to:

1. payroll;
2. maritime payroll;
3. number of board and commission members;
4. mileage of all licensed vehicles which are state-owned or leased, and all mileage on personal vehicles driven in the course and scope of state employment;
5. number of licensed vehicles;
6. acquisition or appraised value of property including, but not limited to, buildings, improvements, and inventory (includes contents, all equipment including mobile equipment and watercraft 26 feet and under), and boiler and machinery;
7. medical malpractice exposures including, but not limited to, patient days, clinic visits, emergency room visits, number of residents/ interns, and miscellaneous categories;
8. number of employees, and miscellaneous or special classes not falling within these definitions as required.

B. Billed units are to allocate premiums to subunits if required. It is not the ORM's responsibility to provide breakdowns at a lower level than the level to which premiums were budgeted or billed.

C. The Office of Risk Management is to receive immediate written notification of the abolishment, transfer, and/or merger of any department, agency, board or commission.

D. The state agencies are to provide or allow access to ORM representatives to records or information necessary to the effective operation of the Risk Management program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:19 (January 1987), amended LR 15:85 (February 1989), LR 31:62 (January 2005), LR 32:

Chapter 5. Billing

§501. Billing and Collection of Insurance Premiums

A. After an agency receives a billing invoice from the Office of Risk Management for payment of insurance

premiums, the agency is to render payment in full within 30 days from the billing date.

B. Every agency shall timely pay premiums billed by the Office of Risk Management. In the event any agency fails to pay any premiums due the Office of Risk Management within 120 days of the effective date of the appropriated insurance coverages, the Commissioner of Administration may upon request by the Office of Risk Management draw a warrant against budgeted funds of any delinquent agency directing the treasurer to pay the Office of Risk Management for the unpaid premiums. If an agency is a non-depository agency, the Commissioner of Administration may direct the head of such agency to render payment of insurance premiums due and owing to the Office of Risk Management.

C. All billing inquiries are to be directed to the Office of Risk Management, Accounting Unit, Accounts Receivable Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:20 (January 1987), amended LR 31:62 (January 2005), LR 32:

Chapter 7. Reporting of Claims

§701. Reporting of Property Damage Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states..."you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for damage to state-owned property which includes damage to buildings and improvements, contents, inventories, mobile equipment, heating and air conditioning systems, and marine hulls 26 feet and under.

C. All claims for damage to property owned by the state are to be reported to the Office of Risk Management's Property Claim Unit in writing. If a loss or claim is serious in nature, it is to be reported by telephone to the Office of Risk Management's Property Claim Unit.

D. Claims are to be submitted, in writing, to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. Information required to be submitted when a claim is reported to the Office of Risk Management's Property Claim Unit includes the following:

1. name of insured, location of property or unit;
2. date of loss;
3. description of loss;
4. location of item, state building ID/property control tag number;
5. size, model, and serial number of item, if applicable;
6. name of person reporting claim, listing job title, and telephone number; and
7. proof of ownership.

F. After a loss has occurred, all property which has been damaged is to be protected against further damage and is to be made available for inspection by a claims adjuster assigned by the Office of Risk Management.

G. If a loss occurs or a claim arises, the agency is not to assume any obligation or incur any expenses without authorization from the Office of Risk Management, but should act to protect property and minimize the loss.

H. If repair or replacement is not accomplished within 36 months of the loss date; or, if approval is not obtained from the Commissioner of Administration to use the funds for some other purpose, or to extend the 36 month prescriptive period, the claim file will be closed.

I. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management, Property Claims Unit for further handling.

J. Any objects and/or products which may have caused, contributed to, or which are suspect of causing an accident are to be retained and preserved as evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:20 (January 1987), amended LR 15:85 (February 1989), LR 31:62 (January 2005), LR 32:

§703. Reporting of Boiler and Machinery Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for bodily injury and third party property damage claims where such losses result from state-owned boiler and machinery equipment, and for property damage to state-owned boiler and machinery equipment.

C. All claims for damage to boiler and machinery equipment are to be reported to the Office of Risk Management's Property Claim Unit in writing. Any claim involving bodily injury is to be reported by telephone to the Office of Risk Management's Property Claims Unit.

D. Claims are to be submitted in writing to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. Information required to be submitted when a claim is reported to the Office of Risk Management's Property Claim Unit includes the following:

1. name of insured, location of property or unit;
2. date of loss;
3. description of item, to include size, model, serial number, and tonnage or capacity;
4. name, job title, and telephone number of person reporting claim;
5. name and phone number of person to be contacted by adjuster assigned by ORM.

F. After a loss has occurred, the property which has been damaged is to be protected against further damage and is to be made available for inspection by a claims adjuster.

G. If replacement, repair, reconstruction, or rebuilding is not commenced within 36 months of the loss date for all state property losses; or if a claim remains inactive for 36 months after replacement, repair, reconstruction or rebuilding is commenced; or if approval is not obtained from the Commissioner of Administration within the same period of time for expenditure of insurance proceeds for some other purpose, the claim file will be closed.

H. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Property Claim Unit for further handling.

I. Any objects and/or products which may have caused, contributed to, or which are suspect of causing an accident are to be retained and preserved as evidence.

AUTHORITY NOTE: Promulgated in accordance with R. S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:20 (January 1987) amended LR 15:85 (February 1989), LR 31:63 (January 2005), LR 32:

§705. Reporting of Comprehensive General Liability Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides Comprehensive General Liability coverage for bodily injury and property damage claims resulting from operations for which the agency could be held legally liable.

C. All general liability claims are to be submitted, in writing, to the Office of Risk Management on a General Liability Claim Reporting Form or in a narrative format. The General Liability Claim Reporting Form can be found on the Office of Risk Management's web site, www.doa.louisiana.gov/orm.

D. Claims are to be submitted, in writing, to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. If a loss is serious in nature, it is to be reported by telephone to the Office of Risk Management for review to determine if coverage is applicable.

F. Claims which are made against a state agency by a third party are to be submitted to the Office of Risk Management for review to determine if coverage is applicable.

G. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Claim Office for further handling.

H. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be removed from service, retained and preserved as evidence.

I. If a loss occurs or a claim arises the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:20 (January 1987), amended LR 15:85 (February 1989), LR 31:63 (January 2005), LR 32:

§707. Reporting of Worker's Compensation and Maritime Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for Worker's Compensation and Maritime Claims.

C. All accidents or occupational diseases involving state employees while in the course and scope of their employment with the state are to be reported to the Office of Risk Management within five days from the date of injury or knowledge. The forms used for this purpose are the Employer's Report of Occupational Injury or Disease Form (E-1, completed at the time of the accident), and the Pre-Existing Condition Form (E-2, which was completed when hired). The Office of Risk Management will accept electronic filing of the Employer's Report of Occupational Injury or Disease Form. Access www.doa.louisiana.gov/orm and click on Agency Claims Reporting System.

D. Employer's Report of Occupational Injury or Disease Forms can be obtained from the Office of Risk Management's web address cited in the above paragraph. The Pre-Existing Condition Form can be obtained from the Office of Risk Management, Claims Section, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. A copy of the Employer's Report of Occupational Injury or Disease Form and a copy of the Pre-Existing Condition Form for a claim in which lost time exceeds seven days, is to be submitted to the Office of Worker's Compensation Administration, P.O. Box 94040, Baton Rouge, LA 70804-9040 within 10 days of actual knowledge of injury or death.

F. All Employer's Report of Occupational Injury or Disease Forms and Pre-existing Condition Forms are to be accurately and completely filled out.

G. Information required to be submitted when a worker's compensation claim is reported on the Employer's Report of Occupational Injury or Disease Form includes:

1. agency's location code number (located in a block below the Employer's Federal Tax I.D. Number);

2. the occupation of the employee, inclusive of his/her classified or unclassified job title. A classified job title is to include the civil service job classification code number;

3. an injured employee's weekly wages are to be reported on the Employer's Report of Occupational Injury or Disease Form.

H. Information which is to be contained on the Preexisting Condition Form includes:

1. complete name, age, Social Security number, residential address, and civil service position being applied for;

2. check list of possible pre-existing diseases, disabilities, and/or conditions before employment;

3. description of particulars relative to any checked pre-existing permanent disabilities;

4. name and address of employer at time of previous injury;

5. witnessed and dated signature of applicant as to the completeness, accuracy, and validity of the information contained on the Pre-Existing Condition Form.

I. If an injured employee returns to work after having lost time, the Office of Risk Management, Worker's Compensation Claims Unit, is to be notified immediately by telephone or electronic mail, and an Employer's Supplemental Report of Injury is to be submitted confirming the return to work date. Also, an Employer's Supplemental Report of Injury Form is to be submitted to the Office of Risk Management at any time the injured employee's work status changes.

J. All lawsuits, demands, notices, summons, or other legal documents pertaining to claims are to be forwarded immediately to the Office of Risk Management's Claim Office for further handling.

K. Any objects and/or products which may have caused, contributed to, or which are suspected of causing any accident are to be retained and preserved as evidence.

L. Any claim paid by legislative appropriation is to be reported to the Office of Risk Management by Appropriations Control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:21 (January 1987) amended LR 15:85 (February 1989), LR 16:401 (May 1990), LR 31:64 (January 2005), LR 32:

§709. Reporting of State Automobile Liability and Physical Damage Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for liability and physical damage to state-owned and leased licensed vehicles and excess liability coverage for employee's private automobiles while being operated with

proper authorization during the course and scope of state employment.

C. All claims for liability or physical damage to state-owned and leased licensed vehicles are to be reported to the Office of Risk Management's Transportation Claims Unit in writing. If a loss involves property damage estimated at \$5,000 or more or if a loss involves any bodily injury, the loss is to be reported by telephone to the Office of Risk Management Transportation Claims Unit.

D. All claims are to be submitted to the Office of Risk Management, Transportation Unit, P.O. Box 91106, Baton Rouge, LA 70821-9106 on a DA 2041 (revised 12/98) accident report form. This form must be completed within 48 hours after an automobile accident. These forms are available through DOA/Forms Management and The Office of Risk Management's web site, www.doa.louisiana.gov/orm.

E. The Automobile Accident Form (DA 2041) must be completed and submitted to the Office of Risk Management, Transportation Unit, P.O. Box 91106, Baton Rouge, LA 70821-9106 or faxed to (225) 342-4470 within 48 hours after the accident occurred.

F. Automobile accident reports are to be submitted with as much information as possible; however, if certain information is unavailable, the report is to still be submitted. Information which is unavailable can be obtained at a later date.

G. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be submitted immediately to the Office of Risk Management's Claim Office for further handling.

H. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

I. If a loss occurs or a claim arises, do not assume any obligation or incur any expenses without authority from the Office of Risk Management.

J. If repair or replacement of a state vehicle is not completed within 12 months of the loss date, or if approval is not obtained from the Commission of Administration within the same period of time for expenditure of insurance proceeds for some other purpose, the claim file will be closed.

K. More information relative to the reporting of state automobile liability and physical damage claims such as reimbursement of collision deductible on employees' personally-owned vehicle used on state business, towing of state vehicles, reduction of automobile liability limit in a special circumstance, rented motor vehicles and/or courtesy vehicles, and guidelines for in-house repairs to state owned licensed vehicles can be found on the Office of Risk Management's web site, www.doa.louisiana.gov/orm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:21 (January 1987) amended LR 15:85 (February 1989), LR 31:65 (January 2005), LR 32:

§711. Reporting of Aviation Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only

for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for aviation losses which includes liability and hull coverage. All claims are to be reported to the Office of Risk Management's Transportation Claims Unit.

C. Claims are to be submitted within 48 hours after an accident/incident to the Office of Risk Management, Transportation Unit, P.O. Box 91106, Baton Rouge, LA 70821-9106 on the Aviation Accident Report form furnished by the Office of Risk Management. Please contact the Transportation Unit supervisor for these forms.

D. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Transportation Claims Unit for further handling.

E. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

F. If a loss occurs or a claim arises, the agency is not to assume any obligations or incur any expenses without authority from the Office of Risk Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:21 (January 1987) amended LR 15:85 (February 1989), LR 31:65 (January 2005), LR 32:

§713. Reporting of Wet Marine Claims (Over 26 Feet)

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance for liability and hull damage for marine vessels over 26 feet in length.

C. All claims involving vessels in excess of 26 feet are to be reported, in writing, to the Office of Risk Management's Transportation Unit. All bodily injury claims are to be reported by telephone to the Office of Risk Management's Transportation Unit.

D. Claims are to be submitted in writing within 48 hours after an accident/incident to the Office of Risk Management, Transportation Unit, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E.1. Information required to be submitted when a claim is reported to the Office of Risk Management's Transportation Unit includes the following:

- a. complete description of vessel, including hull identification and coast guard certificate number;
- b. name of captain or master and passengers;
- c. exact location of incident;
- d. date and time of incident;
- e. names and addresses of third parties involved if known;
- f. description of damages;
- g. contact persons who can assist in investigation;
- h. circumstances surrounding and/or cause of accident.

2. All accidents/incidents involving ferry boats are to be reported to the Office of Risk Management on the Department of Transportation (DOTD) accident report forms: DOTD 03-18-3023 for private vehicles and DOTD 03-18-3024 for passenger(s) injured.

F. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Transportation Claims Unit for further handling.

G. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

H. If a loss occurs or a claim arises, the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

I. Refer to the Office of Risk Management's web site, www.doa.louisiana.gov/orm, for procedures for repairing water vessels (over 26 feet) covered by the commercial insurance market.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:21 (January 1987), amended LR 15:85 (February 1989), LR 31:65 (January 2005), LR 32:

§715. Reporting of Bond and Crime Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for bond and crime which includes performance, money and securities. All claims are to be reported, in writing, to the Office of Risk Management's Property Claims Unit, P.O. Box 91106, Baton Rouge, LA 70821-9106.

C. Information required to be submitted includes the following:

1. name of insured agency;
2. date of loss;
3. location of loss;
4. circumstances surrounding the occurrence;
5. approximate value of loss; and
6. name of person reporting claim, listing job title and telephone number.

D. Claims are to be submitted, in writing, to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

F. If a loss occurs or a claim arises, the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:22 (January 1987), amended LR 15:85 (February 1989), LR 31:66 (January 2005), LR 32:

§717. Reporting of Medical Malpractice Liability Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an 'occurrence' or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. Prior to July 1, 1988 the State of Louisiana provided medical malpractice coverage in accordance with the provision of R.S. 40:1299.39 which details coverage and liability provisions. Effective July 1, 1988, the State of Louisiana became self-insured for medical malpractice. Medical malpractice coverage is extended to state health care facilities and individuals acting in a professional capacity in providing health care services by or on behalf of the state, including medical, surgical, dental, or nursery treatment of patients.

C. Coverage excludes the following:

1. premises liability;
2. bodily injury to employees arising out of employment by the insured;
3. all obligations under Worker's Compensation or similar laws; and
4. bodily injury in handling or maintenance of automobiles, aircraft, watercraft, or transportation of mobile equipment by an auto owned, operated, rented, or loaned to any insured.

D. Claims are to be submitted, in writing, to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. If a loss is serious in nature, it is to be reported by telephone to the Office of Risk Management for review to determine if coverage is applicable.

F. Claims which are made against a state agency by a third party are to be submitted to the Office of Risk Management for review to determine if coverage is applicable.

G. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Medical Malpractice Claim Unit for further handling.

H. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

I. If a loss occurs or a claim arises, the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:22 (January 1987), amended LR 15:85 (February 1989), LR 31:66 (January 2005), LR 32:

§719. Reporting of Road and Bridge Hazard Claims (Department of Transportation and Development)

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an 'occurrence' or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides road and bridge hazard liability coverage for bodily injury and property damage claims resulting from the establishment, design, construction, existence, ownership, maintenance, use, extension, improvement, repair, or regulation of any state bridge, tunnel, dam, street, road, highway, or expressway for which the agency could be held legally liable.

C. All road and bridge hazard claims are to be submitted, in writing, to the Office of Risk Management on the DOTD/ORM Report of Road Hazard Incident form. Forms can be obtained from the Office of Risk Management's Road and Bridge Hazard Claims Unit or on the ORM web site, www.doa.louisiana.gov/orm.

D. Claims are to be submitted, in writing, to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. If a loss is serious in nature, it is to be reported by telephone to the Office of Risk Management for review to determine if coverage is applicable.

F. Claims which are made against a state agency by a third party are to be submitted to the Office of Risk Management for review to determine if coverage is applicable.

G. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Claim Office for further handling.

H. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

I. If a loss or a claim arises, the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

J. It would be the responsibility of the district office of the Department of Transportation and Development to verify the following:

1. that the alleged accident occurred on a state maintained highway/road;
2. existence of the damage;
3. whether the state had knowledge of the defect prior to the alleged accident;
4. the existence of any contract which may exist between the state and any municipality, contractor or other party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of the Governor, Division of Administration, Office of Risk Management, LR 15:85 (February 1989), amended LR 31:67 (January 2005), LR 32:

§721. Claims Unit Contacts

A. For further information on reporting a claim or requesting information regarding a specific claim, contact the Office of Risk Management, in writing, at P.O. Box 91106, Capitol Station, Baton Rouge, LA 70821-9106 or telephone the appropriate claims unit.

Unit	Contact the Following Telephone Number(s)
Claims-Administrative	(225) 219-0012 or (225) 219-0168
Property	(225) 342-8399
<ol style="list-style-type: none"> 1. Buildings and Improvements. Contents and equipment, excluding Boiler and Machinery. 2. Boiler and Machinery 3. Bonds and Crime 	
Transportation	(225) 342-8466
<ol style="list-style-type: none"> 1. Auto Liability 2. Automobile Comprehensive and Collision 3. Aviation 4. Wet Marine 	
General Liability-All Comprehensive General Liability	(225) 342-8463
Medical Malpractice	(225) 342-8442 (225) 219-0868
Workers' Compensation	(225) 342-7390 or (225) 342-8451 or (225) 342-8458 or (318) 487-5411
<ol style="list-style-type: none"> 1. Statutory and Employer's Liability 2. Maritime Compensation 	
Road and Bridge Hazards-All Road and Bridge Hazards	(225) 342-5441 or (225) 219-4846
Subrogation	(225) 342-8446

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 15:86 (February 1989), amended LR 31:67 (January 2005).

Chapter 9. Risk Analysis and Loss Prevention

§901. Risk Analysis and Loss Prevention

A. R.S. 39:1543 requires the development of a comprehensive loss prevention program, for implementation by all state agencies, including basic guidelines and standards of measurement.

B. In order to fully comply with this statute a comprehensive loss prevention plan has been developed, and the following are to be implemented by every state department, agency, board, or commission that employs 15 or more employees.

Any Other Loss Prevention Program—developed by the Office of Risk Management, Loss Prevention Unit in conjunction with the Interagency Advisory Council for the prevention and reduction in accident events that may cause injury, illness, or property damage.

Aviation Safety Program—program to provide a systematic method of screening, training, and accountability for employees and supervisors required to assign or operate state-owned aircraft in the scope of their employment.

Driver Safety Program—program to provide a systematic method of screening, training, and accountability for employees and supervisors required to assign or drive state-owned vehicles or personal vehicles in the course and scope of their employment.

Employee Training—training to establish a systematic method of training employees to perform the required tasks in a safe and efficient manner and to insure all employees receive periodic refresher training.

Equipment Management Program—written loss prevention maintenance program to include, but not limited to, a history of each piece of equipment, designate responsibility, schedule of when maintenance is to be performed, list of equipment to be maintained, how maintenance is to be performed.

First Aid—adoption of a first aid program which will provide a trained first aid person at each job site and shift. This policy covers all facilities and crews.

Hazard Control Program—program to establish a systematic method of recognizing, evaluating, and controlling hazards prior to them producing injury, illness, or property damage.

Housekeeping Program—program to provide a method for systematically inspecting and eliminating safety and fire hazards that result from uncontrolled sources. To establish clearly defined areas of responsibility for orderliness and cleanliness through each state-owned or operated grounds and facilities.

Inspections Program—a program to maintain a safe environment and control unsafe acts, roadway hazard inspection reports, and medical malpractice records.

Investigation Program—a program to thoroughly investigate and identify, as soon as possible, the actual causes and contributing factors of losses in an attempt to prevent recurrences.

Job Safety Analysis—a procedure to be used to review job methods and hazards that relate to the work environment. The job safety analysis should be performed on all tasks or processes that have a higher than normal rate of producing bodily injury or property damage.

Management Policy Statement—an expression of management, philosophies and goals toward safety.

Record Keeping—records to establish a procedure for the uniform development and maintenance of loss prevention and control documents to be retained for one year. This will include inspection reports, accident investigation reports, minutes of safety meetings, training records, boiler and machinery maintenance records, and/or conditions by regular and periodic facility equipment and roadway inspections.

Responsibility for Safety in an Organization—a written document to clearly define supervisory responsibilities at all levels.

Safety Meetings—meetings to be conducted by supervisors with employees on a quarterly basis, unless otherwise specified by ORM, to educate, inform, motivate and examine work practices for potentially unsafe acts that could produce bodily injury and provide a method to preclude recurrences.

Safety Rules—general instructions developed by agencies regarding the employees' responsibilities.

Water Vessel Operator Safety Program—program to provide a systematic method of screening, training, and accountability for employees and supervisors required to assign or operate state-owned water vessels in the scope of their employment.

C. The minimum requirements are in no way intended to require revisions of existing safety plans which meet or exceed these minimum requirements. However, these existing plans are subject to the Loss Prevention Unit for review and acceptance.

D. The Loss Prevention Unit will audit each department, agency, board, or commission to insure compliance of the development, implementation, and adherence to the program. Audits will be conducted once every three years with a re-certification review performed in subsequent years. The deadline for certification will be April 30 of each year for insurance premiums for the following fiscal year. Any agency, board or commission found to be in compliance with state law and loss prevention standards prescribed by the Office of Risk Management shall receive a credit to be applied to the agency's annual self-insured premium per line of insurance coverage, excluding the coverages for road hazards and medical malpractice, equal to 5 percent of the agency's total annual self-insured premium paid per line of coverage. An agency which has failed to receive certification after undergoing a loss prevention audit shall be liable for a penalty of 5 percent of the agency's total annual self-insured premium paid per line of coverage, excluding the coverages for road hazards and medical malpractice. Such compliance will be certified by major risk groups as follows:

1. workers compensation—regular;
2. workers compensation—maritime;
3. general liability;
4. auto liability and auto physical damage;
5. property and inland marine;
6. boiler and machinery;
7. bond and crime risk;
8. aviation;
9. marine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 14:349 (June 1988), amended LR 15:86 (February 1989), LR 31:68 (January 2005), LR 32:

Chapter 11. Law Enforcement Officers' and Firemen's Survivor Benefit Review Board

§1101. Survivors Benefits

A. Purpose

1. To establish an effective and efficient mechanism for fulfilling the provisions of R.S. 39:1533.A, 33:1981, 33:1947, and 33:2201.B.

2. To govern the submission, evaluation and determination of claims submitted pursuant to R.S. 33:1947, 33:2201, and 33:1981.

B. Application

1. The rules will apply to all claims arising from RS 33:1947, 33:2201, and 33:1981.

C. Definitions

Board—the Law Enforcement Officers and Firemen's Survivors Benefit Board.

Child—as defined in R.S. 33:1947.C.

Fireman—as defined in R.S. 33:1981.

Law Enforcement Officer—as defined in R.S. 33:2201.B.

Line of Duty—any activity performed in which a law enforcement officer suffers death as a result of:

a. an injury arising out of and in the course of the performance of his official duties; or

b. arising out of any activity while on or off duty, in his official enforcement capacity, involving the protection of life or property.

Qualifying Claim—those claims meeting the criteria of claims request documentation, and the meaning ascribed to line of duty.

Spouse—as defined in R.S. 33:1947.C.

D. Board Membership and Domicile

1. The board's official domicile will be located in Baton Rouge. All claims hearings, presentations etc. will be held in the board's official domicile. Claimant expenses related to claim preparation and presentation are not allowable for reimbursement. Board members serve on a gratuitous basis. The chairman of the board shall be on a rotation basis as follows: attorney general, legislative auditor, and state risk director. The term of each chairman is limited to two years. The attorney general's term shall begin effective September 19, 1989.

2. The board will be comprised of those individuals or their designees as stated in R.S. 33:1947.

E. Claims Requests

1. All claims shall be submitted to the chairman of Louisiana Law Enforcement and Firemen's Survivors Benefit Board through the Department of Justice-Attorney General.

2. All claim requests must include the following documentation:

a. notarized affidavit for decedent's date of employment, rank, duty assignment, routine work schedule, work responsibilities, brief statement outlining injuries;

b. copy of decedent's commission as police officer/fireman;

c. notarized affidavits from any witnesses to incident;

d. certified copy of investigative report, or uncertified copy accompanied by notarized affidavit of reporting investigative officer, which identifies copy of report as accurate reproduction of original report;

e. certified copy of decedent's death certificate and autopsy protocol report;

f. notarized affidavit from decedent's surviving spouse stating full their full name, address, date of marriage, and that they were not legally separated or divorced at time of death. Also, a certified copy of marriage license;

g. list of names and birth dates of each minor child born to or adopted by decedent, certified copies of birth certificates;

h. certified copy of letters of tutorship;

i. notarized affidavit of tutor or legal representative of surviving child stating child is unmarried and under the age of 18, or alternately, is unmarried, under the age of 23, and a student;

j. notarized affidavit of caretaker of surviving child which states the major child is physically and/or mentally handicapped, totally and permanently disabled, and solely dependent upon decedent for support. Also, copy of the major child's medical and /or psychological records; and

k. if decedent was not survived by a spouse, a notarized affidavit from parents which state that decedent was their child, the date and place of decedent's birth, and full name and address of each surviving parent. Also, a copy of decedent's birth certificate or other legal documents which indicate the name(s) of parent(s).

F. Procedures for Hearings

1. Upon receipt of a claim, the chairman will schedule the claim for board hearing within 60 days after all required documentation is received. Each claim shall be assigned a sequential number claim code which shall be utilized for official references.

2. The chairman shall notify the board members, claimant, and appointing authority of the claimant of the claim items up for consideration no later than 10 days prior to hearing.

3. At the hearing date described the board shall officially receive and act upon all claims received.

4. The board may, at its discretion, entertain additional oral presentations from outside parties regarding the claim.

5. The board shall have the following options with regards to the claim action:

a. approval of the qualifying claim;

b. denial of the claim;

c. deferral pending receipt of additional data.

6. The board shall inform the claimant, in writing, of its determination.

7. If approved, the board chairman shall certify to the Commissioner of Administration and request payment in accordance with R.S. 39:1533.

G. Appeals

1. Claimant may appeal within 60 days of being advised of the board's decision;

2. This appeal shall be filed in the 19th JDC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:1947, R.S. 33:1981, R.S. 33:2201, and R.S. 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 31:69 (January 2005), LR 32:

Subpart 2. Worker's Compensation Fee Schedule Chapter 25. Fees §2501. Fee Schedule

A. The director, Office of Risk Management, Division of Administration, pursuant to notice of intent published December 20, 1987, and pursuant to provisions of R.S. 23:1034.2 and R.S. 39:1527 et seq., adopted effective April 1, 1988 a fee schedule for medical, surgical, and hospital services due under the Louisiana Worker's Compensation Act, R.S. 23:1021-1361, and which arise in the state self-insured worker's compensation cases. Effective, July 1, 1994, the Office of Risk Management began utilizing the Medical Fee Schedule promulgated by the Office of Workers' Compensation in accordance with R.S. 23:1034.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527 et seq.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Office of Risk Management, LR 14:148 (March 1988), amended LR 16:401 (May 1990), LR 31:69 (January 2005). LR 32:

Interested persons may submit written comments to J.S. "Bud" Thompson, Jr., Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106. He is responsible for responding to inquiries regarding this proposed Rule. All comments are to be received by close of business on May 10, 2006.

J.S. "Bud" Thompson, Jr.
State Risk Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Reporting of Claims

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

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

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

There are no estimated effect on revenue collections of state or local governmental units.

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

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effect on competition and employment.

J.S. Thompson, Jr.
State Risk Director
0605#051

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Real Estate Commission

Reorganization of the Real Estate Commission
(LAC 46:LXVII.Chapters 3-37, 53, and 55)

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 or repromulgate LAC 46:LXVII.Real Estate, Chapters 3-55. The purpose of the amendments is to (1) provide an organized, concise, clear-cut body of information that is free of obscurity and ambiguity, (2) better describe the licensing, certification, and registration processes administered by the agency, and (3) remove arbitrary time constraints that serve to (a) disqualify otherwise qualified applicants and (b) nullify certain education hours and test scores.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate

Subpart 1. Real Estate

Chapter 3. Initial License Applications

§301. Forms

A. Initial license applications shall be in such form and detail as prescribed by the commission and shall be accompanied by the fees prescribed in R.S. 37:1443.

B. Initial license applications shall be classed in the following categories:

1. Salesperson;
2. Broker—Individual;
3. Broker—Corporation, Partnership, Limited

Liability Company.

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 26:37 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§303. Sponsorship

A. Applicants for a salesperson license shall be sponsored by an active licensed broker and shall submit the Affidavit of Sponsorship Form (Part B) prescribed by the commission as proof of sponsorship.

B. The Affidavit of Sponsorship Form (Part B) may be submitted with the initial license application, but no later than 90 days after passing the license examination.

C. If the Affidavit of Sponsorship Form (Part B) is not received within the prescribed 90 days, an inactive license shall be issued to the salesperson applicant who shall then be subject to the Louisiana Real Estate License Law and the commission rules and regulations regarding inactive licensees. An active license shall not be issued until such time as the Transfer to Active Status Form prescribed by the commission is received.

D. Applicants for a broker license who elect to be sponsored by an active licensed broker shall be exclusively affiliated as an associate broker of the sponsoring broker.

E. Active licensed brokers who elect to sponsor an applicant for a real estate license shall be subject to the duties and penalties prescribed for sponsoring brokers in the Louisiana Real Estate License Law and commission rules and regulations and shall bear the responsibility for the license activity of any sponsored licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:37 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§305. Documentation

A. All initial license applications for an individual real estate broker or salesperson license shall be submitted with the following documentation:

1. proof of completion of the real estate instruction hours prescribed by R.S. 37:1437:

a. real estate pre-license instruction hours obtained in other jurisdictions may be accepted for full or partial credit at the discretion of the commission and shall be based on the applicability of the subject matter to current pre-license education requirements;

b. real estate pre-license instruction hours obtained from nationally recognized institutes may be accepted for full or partial credit at the discretion of the commission and shall be based on the applicability of the subject matter to current pre-license education requirements;

c. every applicant for a Louisiana real estate license shall provide proof of at least thirty classroom hours of pre-license instruction that includes the Louisiana Real Estate License Law, rules and regulations of the commission, Louisiana Civil Law, as it relates to real estate, and any other instruction hours the commission deems necessary and appropriate.

2. license history verification from each jurisdiction in which the applicant has held or currently holds a real estate license;

3. verification of passing an equivalent real estate license examination, if the applicant is currently or was previously a resident licensee in another jurisdiction;

4. copy of any trade name or trademark registration issued by the secretary of state for use by the individual broker or salesperson applicant in real estate license activities.

B. Every application for a corporation, partnership or limited liability company broker license shall be submitted by the designated qualifying broker with the following documentation:

1. copy of the resolution or other document executed by a principal of the corporation, partnership or limited liability company designating an individual real estate broker as the qualifying broker;

2. copy of the registration certificate issued by the secretary of state;

3. copy of any trade name or trademark registration issued by the secretary of state for use by the corporation, partnership or limited liability company in real estate license activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 32:

Chapter 5. Examinations

§501. Authorization

A. The commission shall issue an examination authorization to each eligible applicant. The examination authorization shall be valid for one examination and shall expire ninety days after the date it is issued.

B. It shall be the responsibility of each applicant that has received an examination authorization from the commission to contact the designated national testing service for an appointment to take the examination.

C. An applicant whose examination authorization expires prior to the applicant taking the examination shall receive a new examination authorization upon submission of a written request and the processing fee prescribed in R.S. 37:1443.

D. The commission shall provide each applicant with a license information bulletin that contains the examination procedures established by the commission and the designated testing service. Failure to comply with the procedures contained in the license information bulletin may result in disqualification from the examination and the forfeiture of all fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:38 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§503. Disqualification of Applicants

A. Any applicant who copies or communicates, or attempts to copy or communicate examination content shall be considered in violation of examination security, which shall be grounds for denial of a license and the forfeiture of all fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:38 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§505. Prohibited Activities

A. Licensees, certificate holders, registrants, school owners or school directors, and persons employed by or associated with a licensee, certificate holder, registrant, school owner or school director, shall not obtain or attempt to obtain by deceptive or fraudulent means any copyrighted test questions and/or confidential test material used by or belonging to any national testing service currently or previously contracted with the commission. Violations of this Section shall be cause for censure, suspension, or revocation of a license, certificate, or registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:38 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§507. Failure of Examination

A. Any applicant who fails an examination may apply to retake the examination by submitting a copy of the fail notice and a new examination processing fee to the commission within 90 days of the failed examination. Failure to reapply for an examination within the 90 day period shall result in closure of the applicant's file and

forfeiture of all fees. Thereafter, the applicant shall be required to submit a new application and remit all prescribed fees to be eligible for the licensing examination.

B. An applicant who does not pass both portions of the examination shall be required to retake the failed portion only; however, the score on the passed portion shall remain valid for a period of one year, after which time the applicant shall be required to retake it.

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 26:38 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§509. Partial Failure of Examination

Repealed.

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 26:39 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§511. Examination Requirement for Out-of-State Applicants

Repealed.

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 26:39 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

Chapter 7. Fees

§701. Duration of Fees

A. Fees for licenses, certificates, and registrations shall cover a period of one calendar year and shall not be prorated.

B. Except as otherwise provided in these rules and regulations all fees submitted to the commission are non-refundable.

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 26:39 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§703. Duration of Fees for Licenses, Certificates and Registrations

Repealed.

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 26:39 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§705. Returned Checks

A. Payment of any fee with a check that is returned by a financial institution, wherein the reason for not paying the check is not a fault of the financial institution, shall be grounds for cancellation of the transaction for which the fee was submitted and/or the suspension or revocation of a license, registration or certificate.

B. Persons issuing checks that are returned to the commission by a financial institution for any reason shall be notified by certified mail at the most current address of record. Within 10 days from the date of the notification, the

person issuing the check shall remit a certified check, cashier's check, or money order, to the commission in the amount of the returned check, plus the processing fee prescribed in R.S. 37:1443.

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 26:39 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

Chapter 9. Renewal of Licenses, Registrations and Certificates

§901. Timely Submission of Renewal Applications

A. The timely submission of a renewal application and payment of the required fees shall be the responsibility of the individual licensee, registrant, or certificate holder.

B. The renewal license of a salesperson or associate broker shall not be issued before the license of the sponsoring broker is renewed.

C. A licensee, registrant, or certificate holder who fails to renew by December 31 is prohibited beginning January 1 from engaging in any activities requiring a license, registration, or certificate until such time as the license, registration, or certificate is renewed.

D. A licensee whose sponsoring broker fails to renew by December 31 is prohibited beginning January 1 from engaging in any activities requiring a license until such time as the sponsoring broker has renewed or the licensee transfers to a new sponsoring broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§903. Non-Renewal of Real Estate Licenses

Repealed.

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 26:39 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§905. Renewal Application

Repealed.

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 26:39 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§907. Education Hours Required for Renewal

A. Any active licensee who fails to comply with the applicable post-license or continuing education requirement prescribed in R.S. 37:1437 shall not be issued a renewal license until such time as the requirement is met.

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 26:40 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

Chapter 11. Delinquent Renewal

§1101. Application for Delinquent Renewal

Repealed.

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 26:40 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§1103. Loss of Renewal Eligibility

Repealed.

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 26:40 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

Chapter 13. Broker Affiliation

§1301. Associate Broker

Repealed.

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 26:40 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§1303. Notification by Broker Applicants

Repealed.

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 26:40 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§1305. Notification by Individual Real Estate Broker

Repealed.

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 26:40 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§1307. Escrow Accounts Prohibited

Repealed.

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 26:40 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

Chapter 15. Transfers and Terminations

§1501. Forms

A. A request to terminate sponsorship of a licensee or to transfer a licensee to a new broker shall be submitted on forms prescribed by the commission and shall be accompanied by the fees prescribed in R.S. 37:1443.

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 26:40 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§1503. Fee Exemptions

A. A request for license transfer that is submitted within sixty days of any of the following circumstances shall be exempt from the transfer fee or delinquent renewal fee prescribed in R.S. 37:1443:

1. the sponsoring broker has died;
2. the sponsoring broker has failed to renew his license;
3. the license of the sponsoring broker has been suspended or revoked;
4. the license of the sponsoring broker has been transferred to the inactive status;
5. the sponsoring broker elects to discontinue the sponsorship of a licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§1505. Purchase or Acquisition of Agencies

A. When a licensed agency purchases or otherwise acquires another licensed agency, the sponsoring or qualifying broker of the acquiring agency shall notify the commission in writing no later than the second working day following the date of acquisition.

B. The notice shall specify the date of acquisition and shall request a transfer to the acquiring agency for all licensees sponsored by the acquired agency.

1. The sponsoring broker for the acquired agency shall return the licenses of all sponsored licensees to the commission no later than the second working day following the date of acquisition.

2. The commission shall issue new licenses to the acquiring agency for each licensee sponsored by the acquired agency. The effective date of transfer to the acquiring agency shall be the date of acquisition specified in the notification.

C. The notification of acquisition shall certify continuous errors and omissions insurance coverage for all licensees that are transferred to the acquiring agency. If the transfer of licensees necessitates payment to the commission for coverage under the commission group errors and omission insurance policy, a listing of all licensees for which coverage is requested and all applicable fees shall accompany the notification.

D. The sponsoring broker of the acquiring agency shall give written notice to all licensees transferred to the acquiring agency within two working days following the date of acquisition.

E. Any licensee of the acquired agency who elects to transfer from the acquiring agency shall do so in accordance with the provisions of R.S. 37:1441.A and §1501.A of this Chapter.

F. Any licensee of the acquired agency who is terminated by the acquiring agency shall be transferred in accordance with the provisions of R.S. 37:1441.A and §§1501.A and 1503.A.5 of this Chapter.

G. The acquiring agency shall provide a written report to the commission on the status of all former licensees of the acquired agency within 15 days following the acquisition.

1. The notification shall include a listing by category that identifies:

- a. each licensee that requested the return of their license to the commission;
- b. each licensee that is being terminated by the acquiring agency;
- c. each licensee that will remain with the acquiring agency.

2. The notification shall include the following documentation and fees:

- a. the license of each licensee that will not remain with the acquiring agency;
- b. copies of the written notification to and/or from each licensee as required by §1505.D of this Chapter;
- c. payment of the transfer fee prescribed in R.S. 37:1443 for each licensee who was sponsored by the acquired agency and who will remain with the acquiring agency;
- d. payment of the errors and omissions insurance fee prescribed in §1505.D of this Chapter, if applicable.

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 26:40 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§1507. Change of Licensing Status

A. A request to transfer a license from active to inactive status or from inactive to active status shall be submitted on forms prescribed by the commission and shall be accompanied by the fees prescribed in R.S. 37:1443, unless exempt as prescribed in §1503 of this Chapter.

B. Corporate, partnership and limited liability company broker licenses shall remain in the active license status.

C. An individual broker that elects to become exclusively affiliated with a sponsoring broker shall submit a request to transfer on forms prescribed by the commission, which shall be accompanied by the fees prescribed in R.S. 37:1443.

D. A licensee may transfer to inactive status without completing the 30-hour post-license education requirement; however, the commission shall not transfer the licensee to active status until such time that the post-license education requirement is complete.

E. The post-license education hours may be used to satisfy the continuing education hours, or a portion of the continuing education hours required for active status as follows:

1. one to three years of inactive status—30 hours of post-license education in lieu of the required 20 hours of continuing education. Any licensee remaining in the inactive status for more than one year shall also 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—30 hours of post-license education and at least 10 hours of continuing education. Any licensee remaining in the inactive status for more than one year shall also 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;

3. more than five years of inactive status—30 hours of post-license education and at least 50 hours of continuing education. Any licensee remaining in the inactive status for more than one year shall also 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.

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 28:485 (March 2002), amended LR 32:

Chapter 17. Termination Responsibilities

§1701. Relinquishment of Business Related Property and Data

A. A licensee whose business relationship with a sponsoring broker has been terminated for any reason shall immediately relinquish all business related property to the sponsoring broker, including:

1. the keys to any and all properties listed with the broker;
2. any documents that in any way pertain to real estate transactions wherein a broker or licensees sponsored by the broker has appeared in a licensing capacity. This does not preclude the licensee from retaining copies of such documents.

B. A sponsoring broker who alleges the failure of a former sponsored licensee to comply with §1701.A of this Chapter shall submit a signed written report of such failure to the commission. The signed report shall constitute a written complaint filed with the commission and shall list the specific business related data and property that was not relinquished to the sponsoring broker. The sponsoring broker shall provide a copy of the report to the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:41 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§1703. Financial Obligations; Commissions and Dues; Disputes

A. The commission shall not intervene or become otherwise involved in employment disputes or disputes pertaining to financial obligations that are the result of a business relationship between a broker and a sponsored licensee or a timeshare developer and timeshare sales registrant, including the payment of commissions and dues to professional organizations. Such disputes shall be settled by the respective parties or by a court of competent jurisdiction.

B. Employment disputes or disputes over financial obligations, commissions, or dues shall not be cause for the failure of a sponsoring broker to return a license or registration to the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:41 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§1705. Relinquishment of Business Related Data

Repealed.

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), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§1707. Report of Alleged Failure

Repealed.

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), repealed by the Office of the Governor, Real Estate Commission, LR 32:

Chapter 19. Names on Licenses, Registrations, and Certificates; Trade Names

§1901. Names on Licenses, Registrations and Certificates

A. All licenses, registrations and certificates issued by the commission shall be issued in the name of the legal entity of the applicant.

1. Licenses, registrations and certificates issued to individual real estate brokers, real estate salespersons, timeshare registrants, and real estate school instructors shall be issued in the name of the individual person.

2. Licenses, registrations and certificates issued to a corporation, partnership or limited liability company for any purpose shall be issued in the identical name as registered with the secretary of state. A license, registration or certificate shall not be issued to any corporation, partnership, or limited liability company not registered with the secretary of state.

3. Names on licenses, registrations and certificates issued by the commission shall not include a trade name unless the trade name is registered with the secretary of state and a copy of the registration is on file at the commission.

4. The name of a licensee whose real estate license has been revoked by the commission shall not appear on any license in a manner that represents, suggests, or implies that the former licensee is licensed 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 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§1903. Trade Names

A. Names on licenses, registrations and certificates issued by the commission shall not include a trade name unless the trade name is registered with the secretary of state and a copy of the registration is on file at the commission.

B. Any name or trade name used by a licensee, registrant or certificate holder in any manner shall be a clearly identifiable entity that can be distinguished from that of another licensee, registrant or certificate holder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:830 (April 2002), amended LR 32:

§1905. Symbols and Trademarks

Repealed.

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 32:

Chapter 21. Concurrent Licenses and Registrations

§2101. Broker or Salesperson License; Timeshare

Interest Salesperson Registration

A. A broker may be concurrently licensed as an individual and as the designated qualifying broker of one or more corporations, limited liability companies, and/or partnerships.

B. Associate brokers and salespersons shall not be sponsored by more than one sponsoring broker.

C. A real estate license and a timeshare interest salesperson registration shall not be issued concurrently to any person. A broker shall not concurrently conduct real estate activities as an individual real estate broker and as an associate broker exclusively affiliated with another real estate broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

Chapter 23. Branch Offices

§2301. Branch Office License; Supervision; Duties and Penalties

A. An office established by a broker or sponsored licensee for conducting any real estate license activity at a separate address from the registered address of the broker, wherein the name and telephone number of the broker or agency is advertised in any way, shall be considered a branch office and shall be licensed as such.

B. An application for a branch office shall be submitted on the forms prescribed by the commission and accompanied by the fees prescribed in R.S. 37:1443.

C. Every branch office shall be under the direct supervision of a licensed individual 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.

D. A broker designated as a branch office manager shall be subject to the duties and penalties prescribed for sponsoring brokers in R.S. 37:1430 et seq.; however, this shall not relieve the sponsoring broker of the ultimate responsibility for 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 28:829 (April 2002), amended LR 32:

Chapter 25. Advertising; Disclosures; Representations

§2501. Disclosures and Representations

A. Agreements between brokers to allow property data to be shared and disseminated to clients, customers, or

prospective clients, including but not limited to web-based or email multiple listing service property data, IDX or VOW property data does not constitute advertising or advertisement as to the property data shared; however, §2515 of this Chapter, shall apply to the area of such electronic communication that displays the property data on websites or email communications.

B. All advertising, disclosures, or representations by any licensee shall include the phone numbers and the identity of the sponsoring broker or firm through the use of the identical name under which the sponsoring broker or firm is licensed or a registered trade name that is a clearly identifiable entity which will distinguish the sponsoring broker or firm from other licensees, registrants, or certificate holders.

C. 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.

D. All advertising of a licensed individual, partnership, firm, or corporate broker shall include their licensed business name, which for the purpose of these rules shall mean the name in which that individual, partnership, firm or corporation is on record with the commission as doing business as a real estate broker or, in the case of a trade name, that which is registered with the secretary of state and on record with the commission.

E. A salesperson or associate broker is prohibited from advertising under only his or her name.

F. All advertising by a salesperson or associate broker must be under the direct supervision of his or her sponsoring broker.

G. In all advertising, the salesperson or associate broker must include the name and telephone number of his or her broker as defined in this Section. The broker's name and telephone number must be conspicuous, discernible, and easily identifiable by the public.

H. If allowed by the sponsoring broker, the salesperson or associate broker may include in the advertisement:

1. the salesperson's or associate broker's personal logo or insignia, which cannot be construed as that of a company name;

2. the salesperson's or associate broker's contact information;

3. a group or team name, as long as the name(s) of the salesperson(s) and/or associate broker(s) are included near the team reference and cannot be construed as that of a company name; and

4. a slogan that may not be construed as that of a company name.

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, LR 32:

§2513. Appraisals

Repealed.

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), repealed by the Office of the Governor, Real Estate Commission, LR 32:

Chapter 27. Escrow and Trust Accounts

§2701. Resident Broker Requirements

A. A resident broker, including corporations, partnerships and limited liability companies, engaged in the sale of real estate on behalf of clients shall open and maintain a sales escrow checking account in a financial institution in the state of Louisiana. All sales escrow accounts shall be titled in the identical wording as stated on the broker's license and the wording "Sales Escrow Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all funds received by a broker in connection with the sale of real estate shall be deposited in this account.

B. A resident broker, including corporations, partnerships and limited liability companies, engaged in the collection of rental payments on behalf of clients shall open and maintain a rental trust checking account in a financial institution in the state of Louisiana. All rental trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Rental Trust Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all funds collected as rental payments from or on behalf of clients shall be deposited into this account.

C. A resident broker, including corporations, partnerships and limited liability companies, engaged in property management activities on behalf of clients shall open a security deposit trust checking account in a financial institution in the state of Louisiana. All security deposit trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Security Deposit Trust Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all funds collected as rental security deposits from or on behalf of clients shall be deposited into this account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§2703. Non-Resident Broker Requirements

A. Non-resident brokers shall be subject to the provisions of §2701 of this Chapter.

B. The sales escrow checking accounts, rental trust checking accounts and security deposit trust checking accounts of a non-resident broker may be opened and maintained in a Louisiana financial institution and/or a financial institution located in the resident state of the broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§2705. Change in License Status; Associate Broker and Inactive Broker Requirements

A. Associate brokers are prohibited from opening and maintaining a sales escrow checking account, rental trust checking account, or security deposit trust checking account. All funds received by an associate broker in any real estate transaction shall be placed in the custody of the sponsoring broker.

B. An associate broker previously licensed as an individual broker or an active broker transferring to inactive status:

1. shall maintain all sales escrow checking accounts, rental trust checking accounts, or security deposit trust checking accounts for the limited and specific purpose of completing pending transactions and disbursing all deposits contained therein;

2. shall not deposit additional funds in sales escrow checking accounts, rental trust checking accounts, or security deposit trust checking accounts as of the effective date of affiliation with a sponsoring broker or transfer to inactive status;

3. shall have five working days from the date of affiliation with a sponsoring broker or transfer to inactive status to notify the commission in writing of the amount of funds in each escrow or trust account and the approximate date that each account will be closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§2707. Branch Office Accounts

A. A broker may open additional sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts to accommodate business transacted out of a branch office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Louisiana Real Estate Commission, LR 32:

§2708. Signatory Rights on Checking Accounts

A. An individual real estate broker shall be an authorized signatory on each sales escrow checking account, rental trust checking account, or security deposit trust checking account and shall be responsible for the proper maintenance and disbursement of any funds contained therein. The addition of sponsored licensees and/or employees of the broker as signatories on the accounts shall not relieve the individual real estate broker of this responsibility.

B. The qualifying broker of a licensed corporation, partnership or limited liability company shall be an authorized signatory on sales escrow checking accounts, rental trust checking accounts and security deposit trust checking accounts maintained by the licensed entity and shall be responsible for the proper maintenance and disbursement of any funds contained therein. The addition of

sponsored licensees, principals and/or employees of the licensed entity as signatories on the accounts shall not relieve the qualifying broker of this responsibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 32:

§2709. Additional Accounts

A. Where the interest of the principal parties to a transaction or series of transactions would be served thereby, and with the prior written consent of the principal parties, a broker or non-resident broker may open an additional sales escrow checking account, rental trust checking account or security deposit trust checking account, as prescribed in §§2701 and 2703 of this Chapter, and shall deposit therein all funds received in trust on behalf of the parties to the transaction or series of transactions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§2711. Non-Interest Bearing Checking Accounts

A. Every sales escrow checking account, rental trust checking account or security deposit trust checking account shall be opened as a non-interest bearing checking account unless all parties having an interest in the funds to be deposited therein have agreed otherwise in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§2713. Personal Funds in Escrow and Trust Checking Accounts

A. A sum not to exceed \$2,500 may be kept in each sales escrow checking account, rental trust checking account, and security deposit trust checking account, which sum shall be specifically identified and deposited to cover bank service charges relating to the accounts.

B. A broker engaged in property management activities may keep funds in excess of \$2,500 in a rental trust checking account for the temporary, limited, and specific purpose of enabling the broker to satisfy financial obligations for or on behalf of clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§2715. Withdrawal

A. Funds deposited into a sales escrow checking account, rental trust checking account, or security deposit trust checking account shall not be withdrawn for any purposes except:

1. upon the mutual written consent of all parties having an interest in the funds;
2. upon commission order;
3. upon court order;
4. to deposit funds into the registry of the court in a concursus proceeding;

5. to deposit funds with the commission pursuant to Chapter 29;

6. to disburse funds upon a reasonable interpretation of the contract that authorizes the broker to hold such funds, provided that the disbursement is not made until 10 days after the broker has notified all parties and licensees in writing;

7. to return the funds to a buyer at the time of closing;

8. to cover the payment of service charges on sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts;

9. upon approval by the commission in connection with the sale or acquisition of a licensed entity;

10. to comply with the provisions of R.S. 9:3251 or any other state or federal statute governing the transfer of rents, security deposits or other escrow funds.

B. Deposits shall be disbursed within 30 days of an agreement between the principles in a real estate transaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§2717. Deposits

A. Funds received in a real estate sales, lease or management transaction shall be deposited in the appropriate sales escrow checking account, rental trust checking account or security deposit trust checking account of the listing or managing broker unless all parties having an interest in the funds have agreed otherwise in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:45 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§2719. Account Closing

A. No sales escrow checking account, rental trust checking account, or security deposit trust checking account may be closed until such time as all deposits therein have been properly disbursed.

B. Bankruptcy and/or the revocation, suspension, or lapse of a broker license for any reason shall not be cause to close or discontinue maintenance of any sales escrow checking account, rental trust checking account, or security deposit trust checking account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:45 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§2721. Transfer of Trust Funds on Sale or Acquisition of Agency

A. When a licensed agency is sold or otherwise acquired by another licensed agency the sponsoring broker of the acquiring agency shall notify the commission in writing of the acquisition and the anticipated date of the transfer of trust funds. The notice shall specify the name of the acquired agency and account numbers of the sales escrow checking accounts, rental trust checking accounts, or security deposit trust checking accounts from which the funds will be

transferred and the account numbers of the accounts into which the funds will be deposited.

B. A letter requesting approval to transfer the funds shall be jointly signed by the sponsoring brokers of the acquired agency and the acquiring agency and shall accompany the notification to the commission.

C. The transfer of funds shall not occur without written approval from the commission, as prescribed in §2715.A.9 of this Chapter.

D. Within five working days following the transfer of funds a letter jointly signed by the sponsoring brokers of the acquired agency and the acquiring agency shall be forwarded to the commission certifying that all trust funds have been transferred. The letter shall include the following:

1. certification that all sales escrow checking account, rental trust checking account, and security deposit trust checking account funds have been transferred to and received by the acquiring agency;

2. certification that supporting documents for all trust funds have been delivered to and received by the acquiring agency;

3. a listing of all sales escrow checking accounts, rental trust checking accounts, or security deposit trust checking accounts from which a transfer was made and the amount of funds transferred from each account;

4. a listing of all sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts into which funds were deposited and the amount of funds deposited into each account.

E. Within 10 days following the transfer of funds, the sponsoring broker of the acquired agency shall close the escrow accounts and trust accounts from which the funds were transferred and shall advise the commission in writing when such action has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:45 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§2723. Deposits

Repealed.

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 26:45 (January 2000); amended by the Office of the Governor, Real Estate Commission, LR 32:

§2725. Account Closing

Repealed.

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 26:45 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§2727. Maintaining Accounts

Repealed.

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 26:45 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§2729. Corporations, Partnerships and Limited Liability Companies

Repealed.

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 26:45 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§2731. Transfer of Trust Funds on Sale or Acquisition of Agency

Repealed.

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 26:46 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§2733. Change of Licensing Status

Repealed.

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 26:46 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

Chapter 29. Disbursement of Escrow Deposits

§2901. Escrow Disputes

A. When a dispute exists in a real estate transaction regarding the ownership or entitlement to funds held in a sales escrow checking account, the broker holding the funds shall send written notice to all parties and licensees involved in the transaction. Within 90 days of the scheduled closing date or knowledge that a dispute exists, whichever occurs first, the broker shall do one of the following:

1. disburse the funds upon the written and mutual consent of all of the parties involved;

2. disburse the funds upon a reasonable interpretation of the contract that authorizes the broker to hold the funds. Disbursement may not occur until 10 days after the broker has sent written notice to all parties and licensees;

3. place the funds into the registry of any court of competent jurisdiction and proper venue through a concursus proceeding;

4. place the funds, including original promissory notes, with the Louisiana Real Estate Commission, with a request for an escrow disbursement order. This request shall include the names and last known address of the parties to the transaction, a copy of the purchase agreement, all forms required by the commission, and copies of any other documents relative to the dispute. The licensees and sponsoring brokers involved in the transaction shall appear when the dispute is brought before the commission;

5. disburse the funds upon the order of a court of competent jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§2903. Escrow Disbursement Order

A. Funds submitted to the commission with a request for an escrow disbursement order shall be immediately

deposited in an interest bearing escrow checking account pending final disposition.

B. At the discretion of the commission, the following action may be taken:

1. the commission may order an investigation;
2. the commission may call an adjudicatory hearing;
3. the commission may place the funds into the registry of any court of competent jurisdiction and proper venue through a concursus proceeding;
4. the commission may issue an escrow disbursement order providing for the disposition and allocation of disputed funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

Chapter 31. Change of Address or Telephone Number; Website Address

§3101. Reporting Change of Address or Telephone Number; Website Address

A. The commission shall be notified in writing within 10 days of any changes in the business address and/or telephone number, including any website address, or residence address and/or telephone number of a licensee, certificate holder, or registrant.

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 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

Chapter 33. Compensation

§3301. Full Knowledge

Repealed.

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 26:44 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

Chapter 35. Disclosure by Licensee

§3501. Licensee as Principal in a Real Estate Transaction

A. The license status of a principal in a real estate transaction, whether individually or through an entity in which an interest is held by the licensee, shall be disclosed in writing to all other principals in the real estate transaction prior to entering into any real estate contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

Chapter 37. Agency Disclosure

§3703. Agency Disclosure

A. Licensees shall provide the agency disclosure informational pamphlet or the agency disclosure form to all parties to a real estate transaction involving the sale or lease of real property.

B. Licensees are responsible for ensuring that the pamphlets and forms are the most current version prescribed by the commission and that reproductions of the pamphlet and form contain the identical language prescribed by the commission.

C. Licensees will provide the agency disclosure informational pamphlet or the agency disclosure form to prospective sellers/lessors and buyers/lessees at the time of the first face-to-face contact when performing any real estate related activity involving the sale or lease of real property, other than a ministerial act as defined in R.S. 9:3891(12).

D. Licensees providing agency disclosure informational pamphlets or agency disclosure forms to prospective sellers/lessors and buyers/lessees shall ensure that the recipient signs and dates the pamphlet or form. The licensee providing the pamphlet or form shall sign as a witness to the signature of the recipient, and the licensee shall retain the signed pamphlet or a copy of the form for a period of five years.

E. In any circumstance in which a seller/lessor or a buyer/lessee refuses to sign the agency disclosure informational pamphlet receipt or the agency disclosure form, the licensee shall prepare written documentation that includes the nature of the proposed real estate transaction, the time and date the pamphlet or form was provided to the seller/lessor or buyer/lessee, and the reasons given by the seller/lessor or buyer/lessee for not signing the pamphlet or form. This documentation shall be retained by the licensee for a period of five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000), amended LR 29:349 (March 2003), amended by the Office of the Governor, Real Estate Commission, LR 32:

§3705. Dual Agency Disclosure

A. The dual agency disclosure form will be used by licensees acting as a dual agent under R.S. 9:3897.

B. Licensees are responsible for ensuring that the form is the most current version prescribed by the commission and that reproductions of the form contain the identical language prescribed by the commission.

C. Licensees shall ensure that the dual agency disclosure form is signed by all clients at the time the brokerage agreement is entered into or at any time before the licensee acts as a dual agent. A copy of this documentation shall be retained by the licensee for a period of five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000), amended LR 29:349 (March 2003), amended by the Office of the Governor, Real Estate Commission, LR 32:

Chapter 53. Real Estate Schools; Real Estate Education Vendors; Instructors

§5301. Definitions

A. Real estate school is defined as any individual or entity certified by the Louisiana Real Estate Commission to provide real estate pre-license education, post license education and continuing education courses.

B. Real estate education vendor is defined as any individual or entity certified by the Louisiana Real Estate Commission to provide post license and/or continuing education.

C. State certified real estate instructor is defined as any individual certified by the Louisiana Real Estate Commission to provide real estate instruction for a certified real estate school or certified real estate education vendor.

D. Guest lecturer is defined as a non-certified instructor who provides no more than two presentations of pre-license education for a certified real estate school in a calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§5303. Certification; Applications and Procedures

A. Certifications issued under this Chapter shall be classed in the following categories:

1. real estate schools;
2. real estate education vendors;
3. real estate instructors.

B. Any individual or entity desiring to conduct business in this state as a real estate school, real estate education vendor, or real estate instructor shall file an application for certification with the commission.

C. The application shall be in such form and detail as prescribed by the commission and shall be accompanied by the certification fee(s) prescribed in R.S. 37:1443.

D. The commission shall approve or deny an application within 45 calendar days after it is received. Incomplete applications or a request from the commission for additional information may be cause for delay beyond 45 calendar days.

E. The commission may deny an application for certification for any of the following reasons:

1. the applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or crime involving moral turpitude in any court of competent jurisdiction;
2. an application contains a false statement of material fact;
3. a professional license or certification held by an applicant has been revoked.

F. The commission shall issue a certificate and assign a certification number to approved applicants that shall be included on all forms, documents, reports, and/or correspondence filed with the commission.

G. Applicants for certification under this Chapter shall obtain a surety bond issued by an insurance company that is authorized to conduct business in this state.

1. Real estate school applicants shall file proof of a \$10,000 surety bond with the commission within 10 calendar days of initial approval.

2. Real estate education vendors shall file proof of a \$5,000 surety bond with the commission within 10 calendar days of initial approval.

3. Real estate instructors shall be exempt from the provisions of this Part and shall not be required to obtain a surety bond.

4. Bonds shall be in favor of the state of Louisiana and conditioned for the protection of the contractual rights of students who attend real estate courses offered by the real estate school or real estate education vendor.

5. Bonds shall remain effective and in force throughout the certification period of the real estate school or real estate education vendor.

6. Proof of bond renewal shall be provided to the commission annually.

7. Failure to maintain a bond shall be cause for revocation or suspension of a certification.

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 32:

§5305. Certifications; Exemptions and Exclusions

A. Colleges, universities, and state vocational-technical schools that provide courses in real estate shall not be required to apply for certification.

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 28:486 (March 2002), LR 29:2073 (October 2003), LR 32:

§5307. Certification; Certificate of Authority

A. The certification to operate as a real estate school, real estate education vendor, or real estate instructor shall be in the form of a Certificate of Authority. No Certificate of Authority shall be issued or renewed for any school applicant holding a real estate broker license whose school is designed, intended and/or primarily used for instruction of that same broker/owner's future salesperson or broker affiliates.

B. A Certificate of Authority shall be issued for a maximum period of one year and shall expire annually on December 31 unless an application for renewal is submitted.

1. Renewal of an instructor Certificate of Authority shall require completion of eight hours of approved continuing education completed during the current certification period. The eight hours shall include four hours in the mandatory course specified by the commission.

2. The renewal of a Certificate of Authority for a real estate school or real estate education vendor shall be exempt from the continuing education requirements of this Section.

C. Failure to renew a Certificate of Authority by December 31 shall result in the following action.

1. All course approvals issued under the Certificate of Authority shall be automatically suspended, and the commission shall not accept any pre-license education, post-license education, or continuing education courses for credit, if the courses were offered after the expiration of the Certificate of Authority.

2. Applications for delinquent renewal of a Certificate of Authority shall not be accepted by the commission after January 31. Failure to renew an expired Certificate of Authority during the prescribed delinquent period shall result in the forfeiture of renewal rights. Any real estate school, real estate education vendor, or real estate instructor

that becomes ineligible to renew a Certificate of Authority shall apply as an initial applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§5309. Real Estate Schools and Real Estate Education Vendors; Owners and Directors

A. All real estate schools and real estate education vendors shall designate a director, whose duty it shall be to ensure that the operations of the school or vendor, and all training locations, adhere to the requirements of the Louisiana Real Estate License Law and the rules and regulations of the commission, and who shall be held responsible to the commission for any violations thereof.

B. Directors shall coordinate and disseminate information pertaining to amendments in the license law, rules and regulations, or policies and procedures of the commission to all staff, instructors, and employees.

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 32:

§5311. Real Estate Schools and Real Estate Education Vendors; Facilities and Inspections

A. The commission may inspect any facility used by a real estate school or real estate education vendor at any time during regular business hours.

B. Real estate schools and real estate education vendors shall be subject to periodic audits and review, as determined by the commission, to ensure that courses are conducted in accordance with the provisions set forth in this Chapter, Chapter 55 of the commission rules and regulations, and R.S. 37:1460. This may include the observation and evaluation of classroom activities, course content, instructor proficiency, and/or the audit of reporting/attendance records.

C. If the real estate school or real estate school vendor is found deficient in any part of this Section, the commission shall prepare a report specifying the areas of deficiency.

D. Any real estate school or real estate education vendor that receives a report of deficiencies shall correct the deficiencies by the date designated by the commission and shall submit a report to the commission that outlines the corrective action.

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 26:53 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§5313. Real Estate Schools and Real Estate Education Vendors; Record Keeping

A. Real estate schools and real estate education vendors shall maintain accurate and properly indexed records on all students for at least five years after course completion and shall produce those records for inspection upon request of the commission. Electronic records shall be maintained in a readily available format that does not prohibit, delay, or otherwise impede inspection.

B. Real estate schools and real estate education vendors shall maintain the following records on each student:

1. complete name and address;
2. total classroom hours taken and course title;
3. dates of attendance;
4. test scores or pass/fail indications;
5. copy of student contract.

C. Real estate schools and real estate education vendors shall provide any student who requests it with a duplicate copy of his/her course completion records. The real estate school or real estate education vendor shall determine any fee associated with providing the records.

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 32:

§5315. Real Estate Schools and Real Estate Education Vendors; Tuition, Fees, and Contracts

A. Each real estate school shall enter into a written contract with each student that shall clearly set forth the tuition and fees charged by the school for a specific course of instruction and the school refund policy.

B. A copy of the contract, signed by an authorized representative of the school, shall be provided to the student immediately after both parties sign the contract.

C. Any additional fees charged for supplies, materials, or required books shall be clearly itemized in the school contract, and such supplies, materials, or books shall become the property of the student upon payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§5317. Instructor Qualifications; Guest Lecturers

A. Applicants for instructor certification shall be required to pass the real estate instructor assessment examination specified by the commission and shall satisfy at least one of the following qualifications:

1. bachelor's degree with a major in real estate from an accredited college or university;
2. bachelor's degree from an accredited college or university and at least two years experience in the real estate business;
3. real estate broker license and a minimum of five years experience in the area of proposed instruction;
4. Juris Doctorate degree or the equivalent from an accredited law school and a minimum of three years experience in the area of the proposed instruction;
5. two years experience as a qualified instructor or professor in the business, finance or economics department of an accredited college or university;
6. any qualifications determined by the commission to be the equivalent of at least one of the qualifications prescribed in Paragraphs 1-5 of this Section.

B. A guest lecturer shall meet at least one of the following qualifications:

1. a college or university professor in real estate, finance, economics, or a related field;

2. a specialist with a degree or professional designation with expertise in the specific topic of instruction;

3. a real estate licensee with at least five years experience in the area of proposed instruction.

C. Guest lecturers shall not instruct pre-license courses pertaining to the Louisiana Real Estate License Law or the commission rules and regulations.

D. Guest lecturers shall not provide more than two presentations of pre-license education for a certified real estate school in a calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§5319. Prohibitions

A. Any activity that is designed to influence or solicit a pre-license education student to work under the sponsorship of any real estate broker shall be considered recruiting and is prohibited while on the premises of a real estate school.

B. In addition to the main location of the school, and any other facility in which the school provides pre-license education courses, the premises of a real estate school shall include Websites and any online and/or distance education courses provided by the school.

C. It shall be prohibited for any real estate brokerage firm to operate a real estate school under the same legal entity as the real estate brokerage firm.

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 32:

§5321. Change of Address

A. The commission shall be notified within 10 calendar days of any change in the address and/or telephone number of any real estate school or real estate education vendor.

B. The commission shall be notified within 10 calendar days of any change in the residence or business address and/or telephone number of any real estate school or real estate education vendor owner, director, or instructor.

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, LR 32:

§5323. School Advertising

A. Advertising by real estate schools and real estate education vendors shall not be false or misleading.

B. The commission may require a real estate school or real estate education vendor to furnish proof of any advertising claims. The commission may order the retraction of advertising that violates the provisions of this Section. Such retractions shall be published in the same manner as the original claim and be paid for by the real estate school or real estate education vendor.

C. Certified real estate schools shall not guarantee the passing of the state real estate licensing examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000); amended by the Office of the Governor, Real Estate Commission, LR 28:487 (2002), LR 32:

Chapter 55. Real Estate Courses

§5501. Course Approval; Applications and Procedures

A. Courses approved by the commission shall be classed in the following categories:

1. pre-license education;
2. post license education;
3. continuing education.

B. Real estate schools and real estate education vendors shall file a course approval application with the commission for each course that will be offered for credit toward an initial or renewal real estate license.

C. The course approval application shall be in such form and detail as prescribed by the commission and shall be accompanied by the processing fee prescribed in R.S. 37:1443.

D. The commission shall approve or deny a course approval application within 45 calendar days after it is received. Incomplete applications or a request from the commission for additional information may be cause for delay beyond 45 calendar days.

E. Each course approved by the commission shall remain active for three years and shall expire on December 31 of the third year unless a renewal application for course approval is filed with the commission. The commission shall not accept credit for a non-renewed course that is presented after the date of expiration.

F. The commission shall assign a tracking number to each approved course that shall be used with the approved course title on all forms, documents, reports, and/or correspondence filed with the commission.

G. Real estate schools and real estate education vendors shall not amend the title or outline of any approved course without first obtaining the written approval of the commission.

1. All requests to amend a course shall be accompanied by the new course outline and the processing fee prescribed in R.S. 37:1443.

2. It shall be the responsibility of the real estate school or real estate education vendor to amend each course as necessary so as to provide for any applicable law or rule change that is enacted during the course approval period. A fee shall not be required when a real estate course is amended to accommodate law or rule changes.

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 32:

§5503. Pre-License Education Courses

A. Salesperson pre-license education courses offered by real estate schools shall be structured in the following manner:

1. salesperson 90-hour course that shall include:
 - a. Real Estate Principles and Practices;
 - b. Louisiana Real Estate License Law;
 - c. Commission Rules and Regulations;

d. Law of Agency, as contained in Title 9 of the Louisiana Revised Statutes;

e. Civil Law, as it pertains to real estate transactions.

B. Broker pre-license education courses offered by real estate schools shall be structured in the following manner:

1. 90-hour course on basic real estate fundamentals;

2. 30-hour course that shall include, and be limited to, the following topics:

a. Louisiana Real Estate License Law;

b. Commission Rules and Regulations;

c. Law of Agency, as contained in Title 9 of the Louisiana Revised Statutes;

d. Civil Law, as it pertains to real estate transactions;

e. Ethics and Professionalism;

3. 30-hour course on broker responsibilities.

C. Real estate schools shall not issue pre-license education credit for attendance at post license education courses or continuing education courses.

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 32:

§5505. Post License Education Courses

A. Post-license courses offered by real estate schools and real estate education vendors shall be developed in accordance with the content outline prescribed by the commission.

B. Real estate schools and real estate education vendors shall not issue credit for any post-license education course unless the student has passed an examination on the course content. Salesperson post-license hours shall be secured through and reported by one approved vendor.

C. Real estate schools shall not incorporate post-license education with pre-license education instruction.

D. The commission may consider course work completed at colleges and universities, national appraisal organizations, the societies, institutes and councils of the National Association of REALTORS®, National Association of Real Estate Brokers, and federal, state, and local governmental entities for post-license education credit.

E. Post-license education courses shall be open to all licensees regardless of broker affiliation.

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 32:

§5507. Continuing Education Courses

A. Real estate schools and real estate education vendors may offer continuing education course topics that include, but are not limited to, appraisal, finance, taxes, zoning, Louisiana Real Estate License Law/commission rules and regulations, environmental quality, property management, and federal laws affecting real estate such as HUD and fair housing regulations.

B. Continuing education courses offered by real estate schools and real estate education vendors shall be a minimum of two hours.

C. Real estate schools shall not incorporate continuing education with pre-license education instruction.

D. The commission shall mandate a four hour topic for continuing education credit that licensees shall complete as a requirement for license renewal.

E. The commission may consider course work completed at colleges and universities, national appraisal organizations, the societies, institutes and councils of the National Association of REALTORS®, National Association of Real Estate Brokers, and federal, state, and local governmental entities for continuing education credit.

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 32:

§5509. Methods of Instruction; Classroom Training, Correspondence, Distance Education

A. Classroom training that is led by an instructor and held in a physical location, or delivered via a network, may be used to present pre-license, post license, and continuing education courses and shall be in such format and detail as prescribed by the commission.

B. Correspondence courses shall be in such format and detail as prescribed by the commission for post license or continuing education credit hours. Passage of an examination on course content is a requirement for all correspondence courses.

C. Distance education, for the purpose of this Chapter, shall mean interactive Internet-based instruction and may be used for pre-license, post license, and continuing education courses. Real estate schools and real estate vendors that offer distance education courses shall apply for course approval as follows:

1. Distance education courses shall be submitted to the commission for content approval prior to any course offering.

2. Distance education courses that have been approved by the commission for course content shall be submitted to the Association of Real Estate License Law Officials (ARELLO) for certification of the delivery method prior to any course offering. Loss of ARELLO certification for courses approved under this Section shall automatically suspend commission approval of the course content.

D. Final examinations for correspondence and distance education courses shall consist of multiple choice questions with four possible answers (a, b, c and d) as follows:

1. a minimum of 20 questions for each two hours of continuing education credit; or

2. a minimum of 30 questions for each three hours of post licensing credit;

3. the examination that a student submits for grading shall include a signed and dated statement that the student has personally completed the course and examination.

E. All courses submitted for approval shall be in the exact format in which they will be sold to licensees for post licensing or continuing education credit.

F. Real estate schools and real estate education vendors shall obtain the student's name, drivers license or identification number, address, and payment prior to the student receiving the course.

G. Real estate schools and real estate education vendors shall not grade any written assignment or examination if it is presented for grading before the time frame for course completion has been reached.

H. Real estate schools and real estate education vendors shall not grade any examination that does not contain the signed certification required in Paragraph D.3 of this Section.

I. Real estate schools and real estate education vendors shall certify students as successfully completing a course only if the student completes any written assignments and passes the required examination on course content.

J. Real estate schools and real estate education vendors shall issue certificates containing the following information to students:

1. complete name of the real estate school or real estate education vendor and the Certificate of Authority number;

2. name and drivers license or identification number of the student;

3. course title;

4. number of credit hours completed;

5. date of course completion;

6. signature of verifier of course completion;

7. acknowledgment of student's successful completion of examination;

8. indication of correspondence study denoted as "correspondence" or "C".

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

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 32:

§5511. Course Reporting; Schedules and Attendance

A. Real estate schools shall submit pre-license education course schedules to the commission.

B. Real estate schools and real estate education vendors shall submit continuing education and post license education course schedules and attendance verification reports to the commission.

C. Course schedules shall be received by the commission at least ten calendar days prior to the beginning of each month.

D. Course schedules and attendance verification reports shall be submitted in such form and detail as prescribed 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 26:56 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:

§5513. Certificate Renewal

Repealed.

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), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§5515. Eligibility of Courses

Repealed.

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 28:485 (March 2002), LR 29:2067 (October 2003), repealed LR 32:

§5517. Requirements for Submission of Additional Course Approval Requests by Approved Vendors

Repealed.

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 26:57 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§5519. Post Licensing and Continuing Education Course Work by Correspondence or Other Distance Learning Methods

Repealed.

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 26:57 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§5521. Post Licensing and Continuing Education Instructor Qualifications

Repealed.

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 26:58 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 29:2067 (October 2003), repealed LR 32:

§5523. Prohibition of Recruiting

Repealed.

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 26:58 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§5525. Course Fees

Repealed.

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 26:58 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§5527. Course Completion Verification and Reporting Requirements

Repealed.

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 26:58 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§5529. Record Keeping

Repealed.

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), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§5531. Inspection or Monitoring of Approved Vendors/Courses

Repealed.

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), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§5533. Pre-licensing Schools Offering Post Licensing and Continuing Education Courses

Repealed.

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), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§5535. Advertisement

Repealed.

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 28:485 (March 2002), repealed LR 32:

§5537. Change of Address

Repealed.

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), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§5539. Post Licensing and Continuing Education on an Individual Basis

Repealed.

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 28:486 (March 2002), repealed LR 32:

§5541. Commission Sponsored Seminars—Continuing Education Only

Repealed.

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), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§5543. Seminar Instructor Qualifications

Repealed.

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 26:60 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:

§5545. Minimum Length of Courses

Repealed.

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 26:60 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 29:2068 (October 2003), repealed LR 32:

Family Impact Statement

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 May 20, 2006 *Louisiana Register*.

The proposed Rules have no known impact on family formation, stability, and autonomy.

Interested parties are invited to submit written comments on the proposed regulations through June 5, 2006 at 4:30 p.m., to Stephanie Boudreaux, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA, 70898-4785 or to 5222 Summa Court, Baton Rouge, LA, 70809.

Julius C. Willie
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Reorganization of the
Real Estate Commission**

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

There are no estimated implementation costs (savings) to state or local governmental units. The content of the proposed amendments is largely housekeeping in nature and is intended to restructure the rules to (1) provide a more organized, concise, clear-cut body of information this is free of obscurity and ambiguity, (2) better describe the licensing, certification, and registration processes, and to (3) remove arbitrary time constraints that serve to nullify certain education hours and test scores, thereby disqualifying otherwise qualified applicants.

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

Revenue collection will continue to be determined by the number of applicants, licensees, registrants, and certificate holders who elect to participate in the programs administered by the agency; however, collection of a processing fee, authorized (but on required) by R.S. 37:1443, and previously uncollected at the discretion of the Commission, will effect revenue collection. The impact is indeterminable, in that the processing fee will only be assessed to individuals who allow deadlines to expire, this requiring duplicate paperwork and processing time. The effect on revenue is not anticipated to be significant.

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

The proposed amendments improve the ability of an applicant to qualify for a license, thereby eliminating any costs associated with the need to requalify. Thereafter, costs to directly affected persons are limited to the regular fee schedule contained in R.S. 37:1443.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There is no estimated effect on competition and employment beyond that which is typical, wherein applicants, licensees, registrants, and certificate holders enter and exit the system each month.

Julius C. Willie
Executive Director
0605#055

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Family Planning Waiver
(LAC 50:XXII.Chapters 21-27)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XXII.Chapters 21-27 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to implement a family planning research and demonstration project under the authority of a Section 1115 waiver. This waiver will provide family planning services to women from age 19 through 44 years old with income at or below 200 percent of the federal poverty level. The services provided will offer women in the targeted population the opportunity to decide when to start a family, to space children based on health concerns and on education and economic goals.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. It is anticipated that this proposed rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 by improving access to family planning services for women in the target population and because of the physical, mental, and emotional well-being which will result from the ability to plan pregnancies.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXII. 1115 Demonstration Waivers

Subpart 3. Family Planning Waiver

Chapter 21. General Provisions

§2101. Purpose

A. The Family Planning Waiver will increase access to family planning services for women who currently are not eligible for such services, but who would be eligible for Medicaid coverage, based on their income, if they became pregnant.

B. The primary goals of the Family Planning Waiver are to:

1. increase access to services which will allow management of reproductive health;
2. reduce the number of unintended pregnancies; and

3. decrease Medicaid expenditures from prenatal and delivery related services for women in the targeted population.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

§2103. Enrollment

A. Family Planning Waiver services will be available to eligible women according to the following enrollment caps.

1. For the first year, priority will be set to enroll up to 25,000 women whose pregnant woman certifications are being closed.

a. On a first-approved basis, up to 50,000 additional women who are not eligible for participation in the priority group established in Paragraph A.1 above may be enrolled until a cap of 75,000 enrollees has been reached for the first waiver year. Enrollment caps cannot be exceeded.

2. For the second year, priority will be set to enroll up to 22,250 women whose pregnant woman certifications are being closed.

a. On a first-approved basis, additional enrollees, including those established in Paragraph A.2 above, will be allowed to enroll until a cap of 110,250 enrollees has been reached for the second waiver year. Enrollment caps cannot be exceeded.

B. Additional enrollment caps for subsequent years will be published in Potpourri notices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Chapter 23. Eligibility

§2301. Recipient Qualifications

A. Family Planning Waiver services shall be provided to women who:

1. are 19 through 44 years of age;
2. have family income at or below 200 percent of the federal poverty level; and
3. are not eligible for inclusion in any other Medicaid program or State Children's Health Insurance Program (SCHIP).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Chapter 25. Services

§2501. Covered Services

A. Services provided in the Family Planning Waiver include:

1. annual physical exams;
2. necessary lab tests; and
3. contraceptive services, including sterilizations and Food and Drug Administration (FDA) approved family planning pharmaceuticals, devices, methods or supplies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

§2503. Service Limits

A. There is a limit of four visits per calendar year for services rendered by a physician, nurse practitioner, physician assistant, or nurse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

§2505. Service Delivery

A. Family planning waiver services may be delivered through any enrolled Medicaid provider whose scope of practice includes family planning services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Chapter 27. Reimbursement

§2701. Reimbursement Methodology

A. Reimbursement for family planning waiver services shall be made according to the following.

1. Tribal "638" facilities will be reimbursed at the rate set by the Centers for Medicare and Medicaid Services (CMS) Memorandum of Agreement with the Indian Health Services which allows states to claim 100 percent federal Medicaid assistance percentage for payments made by the state for services rendered to eligible American Indians and Native Alaskans. The department may, at its discretion, choose to reimburse these providers at the Medicaid fee-for-service rates if CMS discontinues the terms of the Memorandum of Agreement with the Indian Health Services.

2. All other providers, including federally qualified health centers and rural health clinics, will be reimbursed at the Medicaid fee-for-service rates.

B. Any portion of services covered under a recipient's private health insurance plan will not be covered by the Family Planning Waiver Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Implementation of this proposed Rule is subject to approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, June 29, 2006 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

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

RULE TITLE: Family Planning Waiver

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

It is anticipated that the implementation of this proposed rule will result in a programmatic impact on the expenses of the state of \$238 for FY 05-06, \$2,487,997 for FY 06-07, and \$3,634,500 for FY 07-08. It is anticipated that \$476 (\$238 SGF and \$238 FED) will be expended in FY 05-06 for the state's administrative expense for promulgation of this proposed rule and the final rule. These expenditures are currently being used for family planning services in the Office of Public Health and will be transferred to the Medicaid Program for use as state matching funds (10 percent match rate) to implement the waiver program to serve a larger population. There will be no net increase to expenses from the State General Fund.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$238 for FY 05-06, \$22,391,971 for FY 06-07, and \$32,710,501 for FY 07-08. It is anticipated that \$238 will be expended in FY 05-06 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

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

This proposed rule, which continues the provisions of the June 1, 2006 emergency rule establishes a family planning services waiver for women who currently are not eligible for such services, but who would be eligible for Medicaid coverage, based on their income, if they became pregnant (approximately 226,000 women over a five year period). It is anticipated that implementation of this proposed rule will increase program expenditures for family planning services by approximately \$24,879,968 for FY 06-07 and \$36,345,001 for FY 07-08.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Jerry Phillips
Acting Medicaid Director
0605#064

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Hospital Licensing Standards
(LAC 48:I.9469, 9505-9521)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 48:I.9469, 9507-9515 and repeal §§9517-9521 as authorized by R.S. 40:2100-2115 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated

a Rule that established new regulations governing the licensing of hospitals (*Louisiana Register*, Volume 29, Number 11). The bureau now proposes to amend the November 20, 2003 Rule in order to clarify under what conditions outpatient services can be offered when the corresponding service is not offered on an inpatient basis. The bureau also proposes to bring requirements for obstetrical and newborn services in line with recommendations from the *National Guidelines for Perinatal Care*.

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.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 93. Hospitals

Subchapter O. Outpatient Services (Optional)

§9469. General Provisions and Organization

A. ...

B. Outpatient services shall be appropriately organized, integrated with and provided in accordance with the standards applicable to the same service provided by the hospital on an inpatient basis.

1. Outpatient services shall be provided only under conditions stated in Subparagraphs a, b, or Clauses b.i-ii below.

a. Outpatient services may be provided by a hospital if that hospital provides inpatient services for the same area of service. For example, a hospital may provide psychiatric outpatient services if that hospital provides psychiatric services on an inpatient basis.

b. Outpatient services may be provided by a hospital that does not provide inpatient services for the same area of service only if that hospital has a written policy and procedure to ensure a patient's placement and admission into an inpatient program to receive inpatient services for that area of service. The policy and procedure must ensure that the hospital is responsible for coordination of admission into an inpatient facility and must include, but not be limited to, the following:

i. the hospital personnel and/or staff responsible for coordination of placement and admission into an inpatient facility; and

ii. the procedure for securing inpatient services for that patient.

2. For all outpatient services, there shall be established methods of communication as well as established procedures to assure integration with inpatient services that provide continuity of care.

3. When patients are admitted, pertinent information from the outpatient record shall be provided to the inpatient facility so that it may be included in the inpatient record.

C. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2423 (November 2003), LR 32:

Subchapter S. Perinatal Services (Optional)

§9505. General Provisions

A. This Subchapter S requires that the level of care on the Obstetrical Unit and the Neonatal Intensive Care Unit shall be at the identical level except for free standing children's hospitals. All hospitals with existing obstetrical and neonatal services must be in compliance with this Subchapter S within one year of the promulgation date of this Rule. All new providers of obstetrical and neonatal services will be required to be in compliance with this Subchapter S immediately upon promulgation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003), amended LR 32:

§9507. Obstetrical Services

A. These requirements are applicable to those hospitals which provide obstetrical and neonatal services.

B. Levels of Care Units. There are four established obstetrical levels of care units:

1. Obstetrical Level I Unit;
2. Obstetrical Level II Unit;
3. Obstetrical Level III Unit; and
4. Obstetrical Level III Regional Unit.

C. Obstetrical services shall be provided in accordance with current acceptable standards of practice as delineated in the current AAP/ACOG *Guidelines for Perinatal Care*. Each advanced level of care unit shall provide all services and meet the personnel requirements of the lower designated units, as applicable, i.e., a Level III regional unit must meet the requirements of a Level I, II, and III unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003), amended LR 32:

§9509. Obstetrical Unit Functions

A. Obstetrical Level I Unit

1. General Provisions

a. Care and supervision for low risk pregnancies greater or equal to 35 weeks gestation shall be provided.

b. There shall be a triage system for identification, stabilization and referral of high risk maternal and fetal conditions beyond the scope of care of a Level I Unit.

c. There shall be a written transfer agreement with a hospital which has an approved appropriate higher level of care.

d. The unit shall provide detection and care for unanticipated maternal-fetal problems encountered in labor.

e. Blood and fresh frozen plasma for transfusion shall be immediately available.

f. Postpartum care facilities shall be available.

g. There shall be capability to provide for resuscitation and stabilization of inborn neonates.

h. The facility shall have a policy for infant security and an organized program to prevent infant abductions.

i. The facility shall support breast feeding.

j. The facility shall have data collection and retrieval capabilities including current birth certificate in

use, and shall cooperate and report the requested data to the appropriate supervisory agencies for review.

k. The facility shall have a program in place to address the needs of the family, including parent-sibling-neonate visitation.

l. The facility shall have written transport agreements. The transport service must be designed to be adequately equipped and have transport personnel with appropriate expertise for obstetrical and neonatal care during transport. Transport services shall meet appropriate local, state, and federal guidelines.

2. Personnel Requirements

a. Obstetrical services shall be under the medical direction of a qualified physician who is a member of the medical staff with obstetric privileges. The physician shall be Board Certified or Board Eligible in obstetrics/gynecology or Family Practice Medicine. The physician has the responsibility of coordinating perinatal services with the pediatric chief of service.

b. The nursing staff must be adequately trained and staffed to provide patient care at the appropriate level of service. The facility shall utilize the guidelines for staffing as provided by the AAP and the ACOG in the current *Guidelines for Perinatal Care* (See Table 2-1 in §9515, Additional Support Requirements).

c. The unit shall provide credentialed medical staff to ensure the capability to perform emergency Cesarean delivery within 30 minutes of the decision to operate (30 minutes from decision to incision).

d. Anesthesia, radiology, ultrasound, electronic fetal monitoring (along with personnel skilled in its use) and laboratory services shall be available on a 24-hour basis. Anesthesia services shall be available to ensure performance of a Cesarean delivery within 30 minutes as specified in Subparagraph c above.

e. At least one qualified physician or certified registered nurse midwife shall attend all deliveries, and at least one qualified individual capable of neonatal resuscitation shall attend all deliveries.

f. The nurse manager shall be a registered nurse (RN) with specific training and experience in obstetric care. The RN manager shall participate in the development of written policies, procedures for the obstetrical care areas, and coordinate staff education and budget preparation with the chief of service. The RN manager shall name qualified substitutes to fulfill duties during absences.

3. Physical Plant

a. Obstetrical patients shall not be placed in rooms with non-obstetrical patients.

b. Each room shall have at least one toilet and lavatory basin for the use of obstetrical patients.

c. The arrangement of the rooms and areas used for obstetrical patients shall be such as to minimize traffic of patients, visitors, and personnel from other departments and prevent traffic through the delivery room(s).

d. There shall be an isolation room provided with hand washing facilities for immediate segregation and isolation of a mother and/or baby with a known or suspected communicable disease.

e. Any new construction or major alteration of obstetrical units shall have a facility to enable Cesarean section deliveries in the obstetrical unit.

B. Obstetrical Level II Unit

1. General Provisions

a. The role of an obstetrical Level II unit is to provide care for most obstetric conditions in its population, but not to accept transports of obstetrical patients with gestation age of less than 32 weeks or 1,500 grams if delivery of a viable infant is likely to occur.

b. Conditions which would result in the delivery of an infant weighing less than 1,500 grams or less than 32 weeks gestation shall be referred to an approved Level III or Level III regional obstetrical unit unless the patient is too unstable to transport safely. Written agreements with approved obstetrical Level III and/or obstetrical Level III regional units for transfer of these patients shall exist for all obstetrical Level II units.

c. The unit shall be able to manage maternal complications of a mild to moderate nature that do not surpass the capabilities of a board certified obstetrician/gynecologist.

d. The needed subspecialty expertise is predominantly neonatal although perinatal cases might be appropriate to co-manage with a perinatologist.

e. Ultrasound equipment shall be on site, in the hospital, and available to labor and delivery 24 hours a day.

2. Personnel Requirements

a. The chief of obstetric services shall be a board-certified obstetrician or an active candidate for certification in obstetrics. This obstetrician has the responsibility of coordinating perinatal services with the neonatologist or pediatrician in charge of the neonatal intensive care unit (NICU).

b. A board-certified radiologist and a board-certified clinical pathologist shall be available 24 hours a day. Specialized medical and surgical consultation shall be readily available.

C. Obstetrical Level III Unit

1. General Provisions

a. There shall be provision of comprehensive perinatal care for high risk mothers.

b. The unit shall provide care for the most challenging of perinatal conditions. Only those conditions requiring a medical team approach not available to the perinatologist in an obstetrical Level III unit shall be transported to an obstetrical Level III regional unit.

c. Cooperative transfer agreements with approved obstetrical Level III regional units shall exist for the transport of mothers and fetuses requiring care unavailable in an obstetrical Level III unit or that are better coordinated at an obstetrical Level III regional unit.

d. Obstetric imaging capabilities to perform targeted ultrasound examination in cases of suspected abnormalities shall be available.

e. Genetic counseling and diagnostics shall be provided.

f. Ongoing educational opportunities shall be provided through organized educational programs.

g. This unit shall provide for and coordinate maternal transport with obstetrical Level I and II units.

2. Personnel Requirements

a. The chief of the obstetrical unit providing maternal-fetal medicine at a Level III unit shall assure that

appropriate care is provided by the primary attending physician for high risk maternal patients and shall be:

- i. board-certified in maternal-fetal medicine; or
- ii. an active candidate for subspecialty certification in maternal-fetal medicine; or
- iii. a board-certified obstetrician with experience in maternal-fetal medicine and credentialing to care for high risk mothers.

b. If there is no hospital-based perinatologist, a written consultative agreement shall exist with an approved obstetrical Level III or Level III regional obstetrical unit with a hospital-based perinatologist. The agreement shall also provide for a review of outcomes and case management for all high risk obstetrical patients for educational purposes.

c. A board-certified anesthesiologist with special training or experience in maternal-fetal anesthesia services at a Level III unit shall direct obstetrical anesthesia services. Personnel, including certified registered nurse anesthetists (CRNAs), with credentials to administer obstetric anesthesia shall be in-house 24 hours a day.

D. Obstetrical Level III Regional Unit

1. General Provisions

a. The unit shall have the ability to care for both mother and fetus in a comprehensive manner in an area dedicated to the care of the critically ill parturient.

b. These units shall provide for and coordinate maternal and neonatal transport with Level I, II and III NICU units throughout the state.

2. Personnel Requirements

a. The chief of service at the Level III regional obstetrical unit must be a board-certified perinatologist.

b. The obstetrical Level III Regional unit shall have the following obstetrical specialties or subspecialties on staff and clinical services available to provide consultation and care to the parturient in a timely manner:

- i. maternal-fetal medicine;
- ii. cardiology;
- iii. neurology; and
- iv. hematology.

c. Subspecialists to provide consultation in the care of the critically ill parturient shall be on staff in the following areas:

- i. adult critical care;
- ii. cardiothoracic surgery;
- iii. nephrology;
- iv. pulmonary medicine;
- v. neurosurgery;
- vi. endocrinology;
- vii. urology;
- viii. infectious disease; and
- ix. gastroenterology.

d. Personnel qualified to manage obstetrical emergencies shall be in-house 24 hours per day, including CRNAs, with credentials to administer obstetrical anesthesia.

e. A lactation consultant shall be on staff to assist breast feeding mothers.

f. Registered nurses with experience in the care of high risk maternity patients shall be in house on a 24-hour basis.

g. A nutritionist and a social worker shall also be available for the care of these patients.

D.3. - 7. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003), amended LR 32:

§9511. Neonatal Intensive Care

A. This §9511 is applicable to those hospitals which provide obstetrical and neonatal services.

B. Levels of Care. There are four established neonatal levels of care units:

1. Neonatal Level I Unit;
2. Neonatal Level II Unit;
3. Level III NICU Unit; and
4. Level III regional NICU.

C. Each advanced level of care unit shall provide all services and meet the personnel requirements of the lower designated units, as applicable, i.e., a Level III regional unit must meet the requirements of the Level I, II, and III units.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2428 (November 2003), amended LR 32:

§9513. Neonatal Unit Functions

A. Level I Neonatal Unit

1. General Provisions

a. The unit shall have the capability for resuscitation and stabilization of all inborn neonates in accordance with Neonatal Resuscitation Program (NRP) guidelines. The unit shall stabilize unexpected small or sick neonates before transfer to the appropriate advanced level of care.

b. The unit shall maintain consultation and transfer agreements with an approved Level II or III as appropriate, and an approved Level III regional NICU, emphasizing maternal transport when possible.

c. There shall be a defined nursery area with limited access and security or rooming-in facilities with security.

d. Parent and/or sibling visitation/interaction with the neonate shall be provided.

e. The unit shall have the capability for data collection and retrieval.

2. Personnel Requirements

a. The unit's chief of service shall be a physician who is board-certified or board-eligible in pediatric or family practice medicine.

b. The nurse manager shall be a registered nurse with specific training and experience in neonatal care. The RN manager shall participate in the development of written policies and procedures for the neonatal care areas, and coordinate staff education and budget preparation with the chief of service. The RN manager shall name qualified substitutes to fulfill duties during absences.

c. Registered nurse to patient ratios may vary in accordance with patient needs. However, the ratio for a Level I neonatal unit shall be 1:6-8. This ratio reflects traditional newborn nursery care. If couplet care or rooming-in is used, a registered nurse who is responsible for the mother should coordinate and administer neonatal care. If direct assignment of the nurse is also made to the nursery to

cover the newborn's care, there shall be double assignment (one nurse for the mother-neonate couplet and one for just the neonate if returned to the nursery). A registered nurse shall be available at all times, but only one may be necessary as most neonates will not be physically present in the nursery. Direct care of neonates in the nursery may be provided by ancillary personnel under the registered nurse's direct supervision. Adequate staff is needed to respond to acute and emergency situations.

B. Neonatal Level II Unit

1. General Provisions

a. There shall be management of small, sick neonates with a moderate degree of illness that are admitted or transferred.

b. There shall be neonatal ventilatory support, vital signs monitoring, and fluid infusion in the defined area of the nursery. Neonates requiring greater than 24-hour continuous ventilatory support shall be transferred to an approved Level III or Level III regional unit.

c. Neonates born at a Level II facility with a birth weight of less than 1,500 grams shall be transferred to an approved Level III or Level III regional NICU unit unless a neonatologist is providing on-site care in the hospital.

d. Neonates requiring transfer to a Level III or Level III regional NICU may be returned to an approved Level II unit for convalescence.

2. Personnel Requirements

a. A board-certified pediatrician with special interest and experience in neonatal care or a neonatologist shall be the chief of service.

b. Registered nurse to patient ratios may vary in accordance with patient needs. However, the ratio for a Level II neonatal unit shall be 1:3-4 (See Table 2-1 of §9515, Additional Support Requirements).

C. Level III NICU

1. General Provisions

a. There shall be a written neonatal transport agreement with an approved Level III regional unit. There shall be an organized outreach educational program.

b. If the neonatologist is not in-house, there shall be a pediatrician who has successfully completed the Neonatal Resuscitation Program (NRP) or one neonatal nurse practitioner in-house for Level III NICU patients.

c. Direct consultation with a neonatologist shall be available 24 hours per day.

2. Personnel Requirements

a. The chief of service of a Level III NICU shall be a board-certified neonatologist. The following exceptions are recognized.

i. A board-certified pediatrician who is an active candidate for a subspecialty certification in neonatal medicine.

ii. In 1995, those physicians in existing units who were designated as the chief of service of the unit and who were not neonatal or perinatal board-certified, were granted a waiver by written application to the Office of the Secretary, Department of Health and Hospitals. This waiver shall be maintained as it applies only to the hospital where that chief of service's position is held. The physician cannot relocate to another hospital nor can the hospital replace the chief of service for whom the exception was granted and retain the exception.

b. Medical and surgical consultation shall be readily available and pediatric subspecialists may be used in consultation with a transfer agreement with a Level III regional NICU.

c. Registered nurse to patient ratios may vary in accordance with patient needs. However, the ratio for a Level III NICU unit shall be 1:2-3 (See Table 2-1 of §9515, Additional Support Requirements).

D. Level III Regional NICU

1. General Provisions

a. Twenty-four hours per day in-house coverage shall be provided by a neonatologist, a second year or higher pediatric house officer, or a neonatal nurse practitioner. If the neonatologist is not in-house, there shall be immediate consultative ability with the neonatologist and he/she shall be available to be on-site in the hospital within 30 minutes.

b. The unit shall have a transport team and provide for and coordinate neonatal transport with Level I, Level II units and Level III NICUs throughout the state. Transport shall be in accordance with national standards as published by the American Academy of Pediatrics' Section on neonatal and pediatric transport.

c. The unit shall be recognized as a center of research, educational and consultative support to the medical community.

2. Personnel Requirements

a. The chief of service shall be a board-certified neonatologist.

b. Nurse to patient ratios may vary in accordance with patient needs. However, the ratio for a Level III regional NICU shall be 1:1-2 (See Table 2-1 in §9515, Additional Support Requirements).

c. The unit shall have the following pediatric specialties/subspecialties on staff and clinical services available to provide consultation and care to neonates in a timely manner:

- i. anesthesia;
- ii. pediatric surgery;
- iii. pediatric cardiology; and
- iv. pediatric ophthalmology.

d. Subspecialists to provide consultation in the care of the critically ill neonate shall be on staff in the following areas:

- i. pediatric neurology;
- ii. pediatric hematology;
- iii. genetics;
- iv. pediatric nephrology;
- v. pediatric endocrinology;
- vi. pediatric gastroenterology;
- vii. pediatric infectious disease;
- viii. pediatric pulmonary medicine;
- ix. orthopedic surgery;
- x. pediatric urologic surgery;
- xi. ENT surgery; and
- xii. cardiothoracic surgery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2429 (November 2003), amended LR 32:

§9515. Additional Support Requirements

A. A Bioethics Committee shall be available for consultation with care providers at all times.

B. The following support personnel shall be available to provide consultation and care and services to Level II, Level III and Level III regional obstetrical, neonatal, and NICU units in a timely manner:

1. at least one full-time medical social worker who has experience with the socioeconomic and psychosocial problems of high-risk mothers and fetuses, sick neonates, and their families (additional medical social workers may be required if the patient load is heavy);

2. at least one occupational or physical therapist with neonatal expertise; and

3. at least one registered dietitian/nutritionist who has special training or experience in perinatal nutrition and can plan diets that meet the special needs of high-risk mothers and neonates.

C. The following support personnel shall be immediately available to be on-site in the hospital for Level II, Level III and Level III regional obstetrical, neonatal, and NICU units:

1. qualified personnel for support services such as laboratory studies, radiological studies, and ultrasound examinations (these personnel shall be readily available 24 hours a day); and

2. registered respiratory therapists or registered nurses with special training who can supervise the assisted ventilation of neonates with cardiopulmonary disease (optimally, one therapist is needed for each four neonates who are receiving assisted ventilation).

D. The staffing guidelines shall be those recommended by the current AAP/ACOG *Guidelines for Perinatal Care*. (See Table 2-1 below).

Table 2-1. Recommended Registered Nurse/Patient Ratios for Perinatal Care Services	
Nurse/Patient Ratio	Care Provided
Intrapartum	
1:2	Patients in labor
1:1	Patients in second stage of labor
1:1	Patients with medical or obstetric complications
1:2	Oxytocin induction or augmentation of labor
1:1	Coverage for initiating epidural anesthesia
1:1	Circulation for Cesarean delivery
Antepartum/ Postpartum	
1:6	Antepartum/postpartum patients without complications
1:2	Patients in postoperative recovery
1:3	Antepartum/postpartum patients with complications but in stable condition
1:4	Recently born infants and those requiring close observation
Newborns	
1:6-8	Newborns requiring only routine care
1:3-4	Normal mother-newborn couplet care
1:3-4	Newborns requiring continuing care
1:2-3	Newborns requiring intermediate care
1:1-2	Newborns requiring intensive care
1:1	Newborns requiring multi-system support
1:1 or Greater	Unstable newborns requiring complex critical care

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2429 (November 2003), amended LR 32:

§9517. Neonatal Unit Functions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2429 (November 2003), repealed LR 32:

§9519. Medical Staff

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2430 (November 2003), repealed LR 32:

§9521. Staffing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2430 (November 2003), repealed LR 32:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, June 29, 2006 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Hospital 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 to the state other than the cost of promulgation for FY 05-06. It is anticipated that \$1,836 (\$918 SGF and \$918 FED) will be expended in FY 05-06 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 05-06. It is anticipated that \$918 will be expended in FY 05-06 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This rule proposes to amend hospital licensing standards to clarify the conditions and timelines under which outpatient services can be offered when the corresponding service is not offered on an inpatient basis (approximately 607 providers). The rule also proposes to bring the requirements for obstetrical and newborn services in line with the recommendations from the National Guidelines for Perinatal Care (published by the American Academy of Pediatrics, 5th Edition-approximately 90 hospitals). It is anticipated that implementation of this proposed rule will not have estimable costs and/or economic benefits for directly affected persons or non governmental groups in FY 05-06, FY 06-07, and FY 07-08.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition or employment.

Jerry Phillips
Acting Medicaid Director
0605#063

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

Regulation 33—Medicare Supplement
Insurance Minimum Standards
(LAC 37:XIII.525)

In accordance with R.S. 49:953(A) of the Administrative Procedure Act, the Department of Insurance proposes to amend Section 525, Medicare Select Policies and Certificates, of Regulation 33:Medicare Supplement Insurance Minimum Standards (LAC 37:XIII.Chapter 5). The amendments are designed to define the geographical service areas within which Medicare Select policies can be sold; to restrict the sale of Medicare Select policies to persons residing in the issuer's service area; and, to provide notice to policyholders of the potential effects on benefits payable under Medicare Select policies when policyholders move their residence outside of the service area. The amendments are put forth to alleviate confusion regarding Medicare Select policy benefits available to policyholders once the policyholder moves his or her residence outside of the insurer's network service area.

This regulation shall be effective upon final publication in the *Louisiana Register*.

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 5. Regulation 33—Medicare Supplement
Insurance Minimum Standards**

§525. Medicare Select Policies and Certificates

A.1. - B. ...

* * *

Primary Residence—the policyholder's residence as listed on the policyholder's application for insurance or any other residence given by the policyholder to the issuer subsequent to the application date for the purpose of changing the policyholder's residence.

* * *

Service Area—the 50 mile geographical radius or area approved by the commissioner within which a policyholder's primary residence must be located in relation to an issuer's network provider and within which an issuer is authorized to offer a Medicare Select policy.

C. ...

D.1. A Medicare Select issuer shall not issue a Medicare Select policy or certificate in this state until its plan of operation has been approved by the commissioner.

2. After September 1, 2006, issuers shall be prohibited from selling new Medicare Select policies to those persons whose primary residence is located outside of the issuer's service area.

3. Medicare Select issuers shall provide notice, within 30 days after the publication of this rule, to all Medicare Select policyholders that:

a. if the policyholder changes his primary residence to a residence located outside of the issuer's service area:

i. the policyholder shall have the right to convert his current Medicare Select policy to a Medicare Supplement policy; and

ii. the issuer cannot cancel the policyholder's Medicare Select policy on the basis that the policyholder did not convert his Medicare Select policy to a Medicare Supplement policy.

iii. the terms of the policy shall govern with respect to benefits available to the policyholder after moving his primary residence outside of the service area.

b. The policyholder may incur a penalty in the form of some or all of the benefits under the Medicare Select policy not being payable if the policyholder requires medical services outside of the service area after the policyholder changes his primary residence to a residence located outside of the service area without converting his policy to a Medicare Supplement policy.

4. After October 1, 2006, upon the Medicare Select issuer obtaining actual knowledge that a policyholder has changed his primary residence to a residence located outside of the service area, the issuer shall mail to the policyholder the same notice, or one substantially similar, required in the above Paragraph D.3. The issuer shall mail this notice within 30 days after obtaining actual knowledge of the policyholder's change of residence.

E. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1108 (June 1999), repromulgated LR 25:1488 (August 1999), amended LR 29:2442 (November 2003), LR 31:2910 (November 2005), LR 32:

Family Impact Statement

1 Describe the effect of the proposed Rule on the stability of the family. The proposed Rule should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed Rule on the authority and rights of parents regarding the education and supervision of their children. The proposed Rule should have no impact upon the rights and authority of parents regarding the education and supervision of their children.

3. Describe the effect of the proposed Rule on functioning of the family. The proposed Rule should have no direct impact upon the functioning of the family.

NOTICE OF INTENT

Department of Natural Resources Office of Mineral Resources

Dry Hole Credit Program (LAC 43:V.Chapter 4)

Editor's Note: The following Notice of Intent is being repromulgated due to a submission error. The original Notice of Intent was published in the March 2006 *Louisiana Register* on pages 496-501.

Under the authority of R.S. 30:150 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 adopt LAC 43:V.401 et seq.

The purpose of this regulation is to detail the procedure to be utilized to administer the Dry Hole Credit Program allowed for by R.S. 30:150 et seq., as enacted by Act 298 of the 2005 Regular Session of the Legislature.

Title 43

NATURAL RESOURCES

Part V. Office of Mineral Resources

Chapter 4. Dry Hole Credit Program

§401. Definitions

A. Unless the context requires otherwise, the terms set forth hereinafter shall have the following respective meanings, to-wit:

Coastal Zone—that portion of the land and water bottoms of the state of Louisiana, including the Gulf of Mexico, set forth and defined as the coastal zone in R.S. 49:214.24.

Dry Hole—a completed well which is not productive of oil or gas in any sand and classified as a Status 29 well by the Office of Conservation.

Dry Hole Credit—the lesser of the value of 5 billion cubic feet of natural gas production (or the natural gas equivalent of condensate production) multiplied by the spot market price per cubic foot of natural gas at the Henry Hub (or any other gas gathering and marketing facility recognized by OMR from which spot market sales of gas occur, if Henry Hub is not available for comparison pricing), valued at the time application is made for certification as a royalty relief receiving well, or 50 percent of the dry hole well cost of the dry hole credit well which serves as the basis for the dry hole credit sought. The value of dry hole credit may be further modified if the dry hole credit well was drilled as a unit well in a unit which did not contain the entirety of the state mineral lease on which it was drilled or contains lands and leases in addition to that on which the dry hole credit well was drilled.

Dry Hole Credit Well—any new well drilled for purposes of developing and producing oil or gas mineral resources which:

- a. is spudded after July, 1, 2005, but completed before June 30, 2009 for the purpose of certification; and
- b. is drilled on a state mineral lease located within the coastal zone of Louisiana; and
- c. is drilled to a depth greater than 19,999 feet SSTVD; and

4. Describe the effect of the proposed Rule on family earnings and budget. The proposed Rule should have no direct impact upon family earnings and budget.

5. Describe the effect of the proposed Rule on the behavior and personal responsibility of children. The proposed Rule should have no impact upon behavior and personal responsibility of children.

6. Describe the effect of the proposed Rule on the ability of the family or a local government to perform the function as contained in the Rule. The proposed Rule should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

A public hearing on this proposed regulation will be held on June 27, 2006, at 9:30 a.m., in the Plaza Hearing Room of the Poydras Building, 1702 North Third Street, Baton Rouge, LA. Interested persons who wish to make comments may do so at the public hearing or by writing to Kyle M. Green, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214. Comments will be accepted through the close of business, 4:30 p.m., June 27, 2006. No preamble concerning the proposed regulation is available.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 33—Medicare Supplement Insurance Minimum Standards

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

It is not anticipated that the Department of Insurance will incur any costs or savings as a result of implementing this revision. Any new duties imposed upon the department by this revision would be handled by existing personnel.

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

Adoption of this proposed revision will not have any effect on revenue collections by state or local governmental units.

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

Data available are insufficient to determine the effect this revision could have on insurers and/or insureds; however, it is not expected that the amendments would result in any significant economic impact to insurers or insureds. Insurers should absorb the costs of policyholder notification as a normal business expense. Insureds will benefit by having a clearer understanding of their benefits should they relocate their residence outside of the geographic area covered by their policy.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that this revision would have any effect on employment or competition.

Chad M. Brown
Deputy Commissioner
0605#044

Robert E. Hosse
Staff Director
Legislative Fiscal Office

- d. is logged by suitable geophysical methods; and
- e. is verified by OMR as a dry hole by being classified as a Status 29 well by the Office of Conservation; and
- f. is not "commercially productive" by being completely plugged and abandoned according to rules promulgated by the Office of Conservation as evidenced by a copy of the well abandonment certificate duly signed by the appropriate authority in the Office of Conservation; and
- g. has had copies of any and all well information derived from drilling same, including geophysical and geological, surrendered to OMR to be held as a public record; and
- h. has been certified by the Office of Mineral Resources as a dry hole credit well.

Dry Hole Well Cost—a detailed, itemized list of actual costs (not AFE or estimated costs) of drilling the dry hole credit well from well site preparation (including such things as preparing board road, anchoring pads, dredging, permitting and similar preparatory work, but not including legal fees, lease related costs, hearing costs, title searches and similar types of cost), equipment and materials actually utilized in drilling the dry hole credit well, to plugging and abandoning the well according to rules promulgated by the Office of Conservation. All actual costs claimed shall conform generally to costs recognized and accepted as costs attributable to drilling a well only by the Council of Petroleum Accountants Societies (COPAS).

OMR—the Office of Mineral Resources, an office of the Department of Natural Resources and the statutorily designated staff of the Louisiana State Mineral Board.

Pre-Qualifying Well—any permitted, but undrilled, well for which pre-qualifying certification is sought and which meets the following criteria, to-wit:

- a. application is made by completely and accurately filling out the pre-qualifying form provided by OMR; and
- b. the proposed well is permitted to be drilled on a state mineral lease located in the coastal zone of Louisiana; and
- c. the proposed well is permitted to spud subsequent to certification by OMR of the dry hole credit well which applicant seeks to use as the basis for the dry hole credit offset; and
- d. applicant is the proper party granted authority to utilize the dry hole credit derived from the dry hole credit well, or his successor or assignee; and
- e. the proposed well has been permitted by the Office of Conservation to be drilled to a depth reasonably calculated to produce hydrocarbons from sands below 19,999 feet SSTVD; and
- f. the proposed well is permitted to spud after July 1, 2005 and completed before June 30, 2009; and
- g. applicant has obtained from the Office of Coastal Restoration and Management a letter setting forth the minimum mitigation to be required from the applicant if the well is drilled and completed as a hydrocarbon producer, which mitigation shall amount to not less than 125 percent of the wetlands impact of the pre-qualifying well if it becomes a royalty relief receiving well together with applicants agreement to fulfill said mitigation obligation; and

- h. is certified as a pre-qualifying well by OMR.

Royalty Relief Receiving Well—any new well drilled for purposes of developing and producing oil or gas mineral resources which:

- a. is spudded after July 1, 2005, but completed before June 30, 2009 for the purpose of certification; and
- b. is drilled after certification of the dry hole credit well sought to be utilized for the dry hole credit; and
- c. is drilled by the person or entity which has earned the dry hole credit for the dry hole credit well sought to be utilized, or his successor or assignee; and
- d. is drilled on a state mineral lease located within the coastal zone of Louisiana; and
- e. is drilled and completed as an oil or gas well, as so designated by the Office of Conservation, capable of producing from hydrocarbon bearing sands below 19,999 feet SSTVD; and
- f. has been previously certified as a pre-qualifying well by OMR; and
- g. does not utilize or attempt to utilize any other state tax credit (other than an income tax credit) or royalty modification of any kind to modify royalty paid to the state on production therefrom; and
- h. has, from being qualified as a pre-qualifying well, a letter from the Office of Coastal Restoration and Management setting forth the mitigation required from the applicant, which shall amount to not less than 125 percent of the wetlands impact of the royalty relief receiving well, together with the agreement by the applicant to perform said mitigation; and
- i. has been certified as a royalty relief receiving well by OMR.

SMB—the Louisiana State Mineral Board created by Act 93 of the 1936 Regular Session of the Louisiana Legislature.

True Vertical Depth—the actual vertical depth sub sea (below mean sea level) and referred to as SSTVD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:150 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 32:

§403. Application for Status as a Dry Hole Credit Well

A. Only one person or entity shall be able to earn a dry hole credit for each dry hole credit well. The person or entity drilling a dry hole, having the right to apply (whether as the sole working interest party or by agreement between all working interest parties) and desiring to qualify said dry hole as a dry hole credit well, shall apply for status as a dry hole credit well by completely and accurately filling out the provided form and sending same to OMR at 617 North Third Street, LaSalle Building, Eighth Floor, P.O. Box 2827, Baton Rouge, LA 70821-2827, accompanied by the following, to-wit:

- 1. the 1 inch and 5 inch electrical survey; and
- 2. any side wall cores, logs or well surveys run on the well; and
- 3. a copy of that part of the daily drilling report showing the spud date and location and the last part showing drilling cessation, including pulling the drill stem out with the date thereof; and
- 4. a well survey verifying SSTVD and any deviation from vertical taken by the drill pipe; and

5. a copy of the well history report filed with the commissioner of conservation; and

6. a copy of the well abandonment certificate signed by the appropriate authority from the Office of Conservation showing that the well has been plugged and abandoned in conformity with the rules and regulations promulgated by the Office of Conservation; and

7. copies of any other data or information derived from the drilling of the dry hole which may reflect upon its status; and

8. a statement of dry hole cost (which shall be subject to audit by, and at the sole discretion of, the staff of OMR); and

9. written proof (which may include the AFE of the dry hole well showing the applicant to be the sole working interest party or, if more than one working interest owner, a written, notarized agreement, signed by all working interest owners as shown on the AFE, stating that applicant is the authorized party to receive the dry hole credit) that the applicant is the proper person to earn the dry hole credit if the well is certified as a dry hole credit well.

B.1. If the state mineral lease on which the certified dry hole credit well is drilled is part of a unit, either a voluntary unit or a commissioner's unit, which either:

a. contains only a portion of the said state mineral lease; or

b. if the unit contains the entirety of the lease on which dry hole credit well is drilled, but additional leases as well;

2. then the value of the dry hole credit allowed using that said dry hole credit well as its basis, whether the value of the dry hole credit is computed by utilizing the dry hole cost of that said dry hole credit well or by computing the value of 5 billion cubic feet of natural gas (or its equivalent in condensate), shall be reduced by multiplying the total dry hole credit by a fraction comprised of the proportion of the acreage of the state mineral lease on which the dry hole credit well is drilled, allocated in the unit to the total acreage of the unit.

C. All applicants must be duly registered with OMR pursuant to the requirements of Act 449 of the 2005 Regular Session of the Louisiana Legislature.

D. All data given to OMR on all dry hole credit wells certified pursuant to this rule shall be kept in a database at OMR and deemed a public record.

E. After all data submitted has been reviewed by the staff of OMR and the dry hole proposed by the applicant is determined to meet the criteria for a dry hole credit well, OMR shall issue a letter under the signature of the assistant secretary of OMR to the applicant certifying that the submitted dry hole has been deemed a dry hole credit well, and further, containing the serial number of the dry hole credit well, the applicant's name as the party or entity to whom the dry hole credit will be issued, that portion of the accepted total dry hole cost of the dry hole credit well which may be applied against royalty from a royalty relief receiving well (or fraction thereof if the dry hole credit well was a unit well containing leases other than that on which the dry hole credit well was located) and the spud, and plugging and abandonment dates of the dry hole credit well.

F. A report shall be made by OMR to the SMB at its next called meeting following the issuance of the dry hole

credit letter giving such information as shall be required by the SMB at the time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:150 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 32:

§405. Assignment of a Dry Hole Credit

A. The party named on the certification from OMR of a dry hole credit well as the party to whom the dry hole credit is issued may assign the entirety of the dry hole credit to another party or entity, but the dry hole credit shall not be divided in any assignment, either by assigning fractional interests or by assigning the entirety of the interest to more than one assignee.

B. Any assignment of a dry hole credit shall be in the form of an instrument signed by both assignor and assignee, duly witnessed and properly notarized, containing, in addition to language of transference of the dry hole credit, the complete legal names of the assignor and assignee, their respective business domiciliary addresses and correct, up-to-date telephone numbers, facsimile number and email address (if any), the serial number of the dry hole credit well which forms the basis of the dry hole credit together with the value of the dry hole credit being transferred, as both are set forth on the certification of dry hole credit well status belonging to the assignor. The original certification of dry hole credit well status shall be attached to and be a part of the assignment.

C. No assignment or transfer of a dry hole credit shall be valid unless approved by the SMB. The assignment or transfer of the dry hole credit shall utilize the same procedure as required for the assignment or transfer relating to minerals or mineral rights required under R.S. 30:128(A).

D. An assignee of a dry hole credit must be registered with OMR as a prospective lease holder in full compliance with Act 449 of the 2005 Regular Session of the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:150 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 32:

§407. Application for Status as a Pre-Qualifying Well

A. A party desiring to apply a dry hole credit from a certified dry hole credit well to a proposed new well shall, prior to drilling the new well, complete in full an application form provided by, to be returned to, OMR at 617 North Third Street, LaSalle Building, Eighth Floor, P.O. Box 2827, Baton Rouge, LA 70821-2827, requesting that the proposed new well be certified as a pre-qualifying well. Together with, and accompanying, the completed application form, the applicant shall provide the OMR staff with the following, to-wit:

1. a drilling permit from the Office of Conservation which indicates that the proposed pre-qualifying well will be spudded after July 1, 2005, and prior to June 30, 2009, and drilled to a depth reasonably calculated to secure hydrocarbon production below 19,999 feet SSTVD; and

2. written proof that the proposed pre-qualifying well is going to be drilled (bottom-holed) on a state mineral lease located in the coastal zone of Louisiana, either as a lease well or a unit well (for which only a portion of the total dry hole credit amount shall apply, as obtained by multiplying the dry hole calculated by a fraction which is equal to the

proportion of the state mineral lease acreage on which the proposed pre-qualifying well is drilled as allocated within the unit to the total acreage of the unit); and

3. written proof in the form of an affidavit that all necessary permits and all rights-of-way have been acquired, that there are no impediments, including management approval, remaining to the drilling of the well and that the Office of Coastal Restoration and Management has been notified of the intended well in order to review the potential wetlands impact; and

4. the written certification of dry hole credit well status issued by OMR or an assignment of dry hole credit interest previously approved by the SMB showing that the applicant is the proper party to apply for pre-qualification status; and

5. written evidence from the Office of Coastal Restoration and Management, which shall have been notified of the application for pre-qualifying well status by OMR, obtained by the applicant, setting forth the estimated wetlands impact of the proposed new well together with an agreement by the applicant to mitigate not less than 125 percent of the wetlands impact, or more if required, in a manner approved by the Office of Coastal Restoration and Management.

B. No more than 20 active pre-qualifying wells and existing royalty relief receiving wells, in the aggregate, shall be certified by OMR at any one time. If a party or entity having a dry hole credit from a certified dry hole credit well proposes to drill a new well and applies for status of the new well as a pre-qualifying well, and there are already 20 active pre-qualifying wells and/or royalty relief receiving wells, in the aggregate, then that applicant shall be placed on a waiting list, in the order of date and time of application. Thereafter, if any active pre-qualifying wells become inactive, new applicants on the waiting list, in the order of their listing, may apply for status of a new well to be drilled as a pre-qualifying well provided that no pre-qualifying well status may be granted on or after June 30, 2009.

C. Upon applicant's furnishing the information hereinabove set forth, and if there are less than 20 active pre-qualifying wells and/or existing royalty relief receiving wells, in the aggregate, already certified, OMR may issue a letter certifying that:

1. as of the effective date set forth in the letter, the new proposed well, as designated by the serial number issued by the Office of Conservation on the drilling permit, is deemed an active pre-qualifying well; and

2. the pre-qualifying well status shall remain active only until:

i. the proposed new well is drilled, logged and deemed productive from hydrocarbon bearing sands located below 19,999 feet SSTVD or classified as a Status 29 dry hole by the Office of Conservation, or down hole drilling operations cease for a period in excess of six months without a log being run which indicates the well will be productive from hydrocarbon bearing sands below 19,999 feet SSTVD; or

ii. the expiration of the drilling permit used to obtain pre-qualifying status, whichever is earlier, but under no circumstances on or after June 30, 2009; and

3. the serial number of the dry hole credit well providing the basis for the dry hole credit and the amount of

dry hole well cost (computed from the letter of certification of dry hole credit well status) which may be used to offset royalty payments if the pre-qualifying well becomes a royalty relief receiving well; and

4. reference, as an attachment, to the wetlands impact mitigation letter and agreement between the applicant and the Office of Coastal Restoration and Management reiterating applicant's agreement to mitigate found by the Office of Coastal Restoration and Management, but not less than 125 percent of any actual wetlands impact, upon drilling the pre-qualifying well.

D. Under no circumstances shall a well permitted as a re-entry into an existing well bore, whether for deepening, sidetracking or otherwise, qualify for certification as a pre-qualifying well.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:150 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 32:

§409. Application for Status as a Royalty Relief Receiving Well

A. Only a pre-qualifying well may become a royalty relief receiving well.

B. A party drilling a pre-qualifying well which is logged and deemed productive from hydrocarbon bearing sands below 19,999 feet SSTVD as a producing well may request certification as a royalty relief receiving well by completing the appropriate form provided by, and returning same to OMR at P.O. Box 2827, 617 North Third Street, LaSalle Building, Eighth Floor, Baton Rouge, LA 70821-2827, accompanied by the following documentation, to-wit:

1. written proof, including appropriate portions of the drilling report showing spud location and date, and bottom hole location, date and SSTVD; the completion report and log showing SSTVD of all perforations which contribute to the present productivity; plats showing the state lease on which the well is drilled; unit plats, Office of Conservation orders or voluntary unit agreements, if drilled within a unit, showing unit allocation of acreage of the state lease on which well is drilled in proportion to total unit acreage; and data from well tests reasonably calculated to test for productivity in all completions below 19,999 feet SSTVD, indicating that:

a. the well was spudded between July 1, 2005 and completed before June 30, 2009; and

b. the well is completed as productive from hydrocarbon bearing sands below 19,999 feet SSTVD as well as the percentage of perforations below 19,999 feet SSTVD; and

c. the well is drilled on a state mineral lease in the coastal zone of Louisiana; and

d. if the well is drilled in a unit, the proportion of state mineral lease acreage on which the well is drilled as allocated in the unit to the total acreage of the unit; and

2. the pre-qualification well certification issued by OMR showing the serial number of the pre-qualifying well, the party receiving the pre-qualifying well status and the sum of money attributed to the dry hole well cost which may be used to offset royalty payments to the state from the royalty relief receiving well; all of which indicates that the well for which royalty relief receiving well status is sought has been pre-qualified, that the applicant for royalty relief

receiving well status is the same party or entity to whom the pre-qualifying well certification was given and, if applicable, the amount of dry hole well cost which may be applied to offset royalty payments to the state on production from the royalty relief receiving well, if certified. All information obtained by OMR relating to qualifying a drilled and completed well as a royalty relief receiving well shall be kept in a database at OMR as a public record.

C. If applicant's well meets all of the criteria set forth in Act 298 of the 2005 Regular Session of the Louisiana Legislature as necessary to earn a dry hole credit offset, as evidenced by the information furnished in Subsection B above, OMR shall:

1. determine the total amount of dry hole credit which may be used to offset royalty payments to the state if the royalty relief receiving well status is granted by:

a. ascertaining the Platts spot market price per cubic foot of natural gas at the Henry Hub (or any other gas gathering and marketing facility recognized by OMR from which spot market sales of gas occur, if Henry Hub is not available for comparison pricing) and multiply that price by 5 billion cubic feet of gas to arrive at a sum of money; then

b. comparing the sum of money obtained in Subparagraph a herein to that portion of the dry hole well cost which may be used as a dry hole credit as set forth on the pre-qualifying well certification; and

c. determining the lesser of the two amounts as the total dry hole credit which may be used; and

2. if the royalty relief receiving well is a unit well, ascertain the proportion of acreage allocated to the state lease on which the pre-qualifying well was actually drilled (bottom holed) within the unit to the entire acreage of the unit and multiply that proportion by the total value of the dry hole credit as previously determined in Paragraph 1 hereinabove to obtain the revised dry hole credit allowed to offset royalty payments to the state from unit production allocated to the state lease; and

3. divide the value of the dry hole credit determined in Paragraphs 1 and 2 hereinabove by 36 to yield the maximum monthly value of dry hole credit which may be used by the royalty payer to offset monthly royalty payments to the state; and

4. notify the Office of Conservation that it is in the process of qualifying a newly drilled and completed well as a royalty relief receiving well and have the applicant request that said Office of Conservation issue a new, unique LUW code for production purposes to the well serial number of the pre-qualifying well sought to be certified as a royalty relief receiving well (no letter certifying status as a royalty relief receiving well will be issued until the Office of Conservation has issued the new, unique LUW code as requested); and

5. issue a letter certifying the previously certified pre-qualifying well, by serial number, as a royalty relief receiving well, which shall also contain the new, unique LUW code issued to that well by the Office of Conservation, the total monthly amount of dry hole credit, as calculated over a 36 month period, which may be used to offset any monthly royalty payments due the state on production from, or attributable to, the royalty relief receiving well, with the proviso that under no circumstances shall the value of monthly royalty paid to and received by the state on production from the royalty relief receiving well amount to

less than one-eighth of the total value received for the sale of monthly production, less other lease allowable deductions, allocated to the lease on which the royalty relief receiving well is located.

D. Certification as a royalty relief receiving well shall attach to, and only to, the former pre-qualifying well so certified, regardless of whether interests in the said royalty relief receiving well or the lease on which the said well is located are transferred subsequent to the certification. The dry hole credit offset amount specified in the certification shall be available only to the royalty payer on royalty due the state on production from the said royalty relief receiving well.

E. The decimal percentage of production due the state which yields the value from which the dry hole credit may be deducted by the royalty payer shall be the royalty specified in the state mineral lease on which the royalty relief receiving well is located or, if a unit well, the decimal portion allocated to that lease within the unit. However, at no time shall the monthly royalty, in value, paid to the state, after deducting the maximum allowed value of the monthly dry hole credit offset, amount to less than one-eighth of the total value received for the sale of monthly production, less other lease allowable deductions, allocated to the lease on which the royalty relief receiving well is located, as mandated in R.S. 30:127 and Act 298 of the 2005 Regular Session of the Louisiana Legislature. If the royalty payer on production from the royalty relief receiving well determines that, by deducting the maximum monthly value of the dry hole credit offset allowed, the value of the monthly royalty payment to the state would amount to less than the value of a one-eighth royalty, then the royalty payer shall deduct only that much of the monthly value of the dry hole credit offset allowed as will yield a royalty payment to the state of the value of a one-eighth royalty.

F. Applicant must designate by registered business name, domiciliary address, current telephone number, facsimile number (if one) and e-mail address, the royalty payer which would be authorized by OMR to apply the extension of dry hole credit royalty relief beyond the 36 month period initially granted by OMR.

G. Only one dry hole credit well may form the basis for a dry hole credit to be used to offset royalty payments to the state from only one royalty relief receiving well, and no more than 20 dry hole credit wells, in total, may be utilized as a basis to offset royalty payments to the state. The royalty relief dry hole credit shall be deemed issued when the pre-qualifying well has been certified as a royalty relief receiving well and its utilization to offset royalty payable to the state must begin within four years of the date of said certification.

H. If the pre-qualifying well is drilled and is a dry hole, the applicant may initiate the process to have that well qualified as a dry hole credit well.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:150 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 32:

§411. Extending the Dry Hole Credit Offset beyond Thirty-Six Months

A. If the payer of royalty on production from, or allocated to, a certified royalty relief receiving well is not

able to utilize the full amount of the dry hole credit determined as applicable to that royalty relief receiving well to offset royalty payments to the state within the 36 month period from date of first production, a request, in writing, by the party or entity entitled to the dry hole credit to OMR to extend the period of royalty offset beyond the 36 month period may be made. The written request must identify, by LUW code and serial number, the certified royalty relief receiving well on which the extension of royalty offset is being requested, the total amount of dry hole credit utilized to offset royalty payments to the state in the 36 month period and the level of production of the royalty relief receiving well at the time of the request. The written request must be accompanied by the letter certifying the royalty relief receiving well status.

B. Should OMR decide to grant the extension, it shall issue a letter authorizing the full monthly dry hole credit offset on royalty payments to the state, which was previously granted for the 36 month period, to continue for an extension period not to exceed 24 additional months or until the full dry hole credit value is utilized, whichever is earlier. Under no circumstances shall the value of monthly royalty paid to the state during the extended 24 month period fall below the value of a one-eighth royalty, as specified in R.S. 30:127, nor shall the additional dry hole credit period exceed a total of 60 months or remain in force beyond June 30, 2013, whichever is earlier. Any dry hole credit offset not utilized within 60 months from date of first production, or before June 30, 2013, shall be lost to the payer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:150 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 32:

§413. Termination of Dry Hole Credit Offset

A. Should the total dry hole credit issued to a royalty relief receiving well be utilized in full to offset royalty payments to the state within 36 months from date of first production (or within the additional 24 month extension if granted), or a total of 60 months elapse from date of first production from the royalty relief receiving well without the total dry hole credit being utilized, or June 30, 2013 arrive, in either case, OMR shall issue a letter notifying the payer that, as of a certain date, no further dry hole credit will be available for offset against royalty paid to the state from production from that royalty relief receiving well. Upon issuance of that letter, OMR shall note the serial number and LUW code of that royalty relief receiving well in its database as one of only 20 such royalty relief receiving wells to be allowed.

B.1.a. Should production cease in whole or in part from productive sands below 19,999 feet in a royalty relief receiving well due to either:

i. a plug back from the formerly producing, but depleted sand below 19,999 feet and perforation into and production from sands above 19,999 feet in the same well; or

ii. perforations into and production from sands above 19,999 feet commingled with production from sands below 19,999 feet in the same well;

b. the dry hole credit offset allowed against production from that well shall be terminated in whole or in part in proportion to the percentage of production derived from sands above 19,999 feet as determined by the ratio of

the rate of flow from perforations above and below 19,999 feet.

2. If production from sands below 19,999 feet remains separate from production from sands above 19,999 feet in the same royalty relief receiving well, the dry hole credit offset may be used against the production from below 19,999 feet only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:150 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 32:

Family Impact Statement

The proposed adoption of LAC 43:V.401 et seq., regarding the Dry Hole Credit Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. The implementation of this proposed Rule will have no known or foreseeable effect on:

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

Interested parties may submit written comments relative to the proposed Rule until 4 p.m., Friday, June 30, 2006, to Monique M. Edwards, Executive Counsel, Office of the Secretary, Post Office Box 94396, 617 North Third Street, LaSalle Building, Twelfth Floor, Baton Rouge, LA 70804-9396.

Scott A. Angelle
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Dry Hole Credit Program

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

The Department of Natural Resources, Office of Mineral Resources will require three additional positions (auditor, engineer, geologist) to certify, monitor, and audit the participating wells. The costs of these personnel will be some \$205,000 in the first full year. An additional one-time \$50,000 will be utilized to modify the Department's royalty tracking system to account for this new relief, and a small amount of funds will be used for developing the rules and regulations necessary to implement the program. The Office of Mineral Resources was appropriated sufficient funds to implement the program. However, that funding and those three positions were eliminated during current year budget reductions. Therefore, these duties and functions will be absorbed utilizing existing funding and staff.

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

This program is expected to be revenue neutral in the first five years and then generate positive net revenue gain to the state in years 6 through 25. Participation in the program is limited to a total of twenty wells drilled by June 30, 2009 in the coastal zone on which the state will receive production royalties. Drillers must drill dry holes in the coastal zone before

any benefit is paid out by the state. The success rate for this type of discovery well is no less than 20 percent, thereby producing no less than 4 successful wells, each of which will need 10 additional wells to develop the field. Therefore, the statistical maximum of 16 dry holes will be offset by 44 successful wells, only 16 of which will receive the dry hole production credit.

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

The costs and/or economic benefits to others cannot be quantified. The program should have a positive effect on oil and gas exploration activity in the coastal zone and at the depths required by the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on competition and employment cannot be quantified. If the program is successful in encouraging exploration, increased employment in the oil and gas sector will occur to the extent this targeting drilling activity does not divert activity from other areas of the state.

Robert D. Harper
Undersecretary
0605#039

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Division of Youth Services
Office of Youth Development**

Probationary Period (LAC 22:I.707)

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. 36:405, the Department of Public Safety and Corrections, Division of Youth Services, Office of Youth Development gives notice of its intent to promulgate §707. Probationary Period. The deputy secretary's purpose for promulgating this Rule is to supplement the information provided in the Employee Manual regarding probationary appointments and the attainment of permanent status, and to increase the probationary period for Youth Services employees to 12 months.

**Title 22
CORRECTIONS**

Part I. Corrections

Chapter 7. Youth Services

Subchapter A. Administration

§707. Probationary Period

A. Purpose. This rule will supplement the Employee Manual regarding probationary appointments and the attainment of permanent status and increase the probationary period to 12 months.

B. Applicability. The undersecretary or designee, unit heads, Youth Services (YS) Central Office's Human Resources Manager, Unit Human Resources staff, all newly hired classified employees and their supervisor's. unit heads shall ensure compliance with this policy.

C. Policy. It is the deputy secretary's policy that probationary periods for YS employees will be for a period of 12 months. If an employee performs assigned duties in a

satisfactory manner during the 12-month period, the employee will attain permanent status. If the employee does not perform assigned duties satisfactorily, the employee will be separated from employment.

D. Definitions

Agency Preferred Re-Employment List—a list of names of permanent employees who were laid off or demoted in lieu of a layoff.

Appointing Authority—Deputy Secretary of YS.

Classified Employee—an employee who is hired under the Civil Service system on a probational appointment and attains permanent status.

ISIS—Integrated Statewide Information Systems.

Permanent Appointment—the appointment of a probationary employee after certification by the appointing authority or designee, signifying that the employee has met the required standard of work during the probationary period.

Probational Appointment—an essential part of the examination process; used for the most effective adjustment of a new employee and for the elimination of any probationary employee whose performance does not meet required work standards. Employees who are required to serve probationary periods are those appointed to the following: permanent positions following certification from an open competitive employment list; original appointments to permanent positions in non-competitive classes; non-competitive re-employments based on prior service, except those hired from the Agency's Preferred Re-Employment List in a position which was filled with a probational appointment; and those employees who have an interruption of a probationary period for military purposes.

Unit Head—facility directors, Probation and parole program director, and the deputy secretary of designee for YS Central Office.

YS Central Office—offices of the deputy secretary, undersecretary or designee of the Office of Management and Finance, assistant secretaries and their support staff.

E. General. The appointing authority may separate a probationary employee at any time under Civil Service Rule No. 9.1(e).

F. Probational Appointments

1. All newly hired employees appointed on probational appointments shall serve a 12-month probationary period as a test period of satisfactory work performance as outlined in their job descriptions and determined by their supervisors.

2. A probationary employee who is absent for military training or active duty in excess of 30 consecutive calendar days shall return to work in the probationary status at the point reached in the probationary period before leaving. Absences of 30 consecutive calendar days or less shall be counted as part of the probationary period.

3. A former employee who is on the Agency Preferred Re-employment List and is re-employed in a position that must be filled with a probational appointment must serve a 12-month probationary period.

4. An employee who is permanently transferred, reassigned, or demoted to another position shall be eligible for permanent status in the new position after completing the probationary period that began prior to the change in position(s).

5. The probationary period of a part-time employee is computed on the same calendar basis as though employed full-time.

6. While on probationary status, an employee earns and can use annual, sick, and compensatory leave. The employee also gets paid for holidays and is eligible for health care and retirement benefits.

G. Permanent Appointments. Employees with permanent status who are promoted, transferred, reassigned, or demoted to another position are not required to serve a probationary period in the new position.

H. Permanent Appointment Action Following Probationary Period

1. A permanent appointment of a probationary employee shall begin upon certification by the appointing authority or designee to Civil Service that the employee has met the required standard of work while on probationary status.

2. A permanent appointment must be reported to Civil Service through the ISIS Human Resources System.

I. Monitoring Procedures

1. The Human Resources (HR) staff will run reports from the ISI Human Resources System of employees who are eligible for permanent status.

2. When an employee is eligible, HR staff will complete a "tickler" and forward to the employee's supervisor.

3. The supervisor will make a recommendation regarding permanent status and forward the recommendation to the appointing authority for approval.

4. The appointing authority will return the approval to the HR staff for entering into the ISIS Human Resources System.

5. The HR staff will notify the employee of the action taken with a copy of the "Employee Notification Form."

AUTHORITY NOTE: Promulgated in accordance with Civil Service Rules Nos. 8:10(b) and 17:25(a).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Youth Services, Office of Youth Development, LR 32:

Family Impact Statement

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

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

3. The proposed Rule will not affect the functioning of the family.

4. The proposed Rule will not affect the family earnings or family budget.

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

6. The proposed Rule is a state enforcement function.

Interested persons may submit written comments until 4:30 p.m., June 10, 2006, to Kathe R. Zolman, Department of Public Safety and Corrections, Office of Youth Development, Legal Department, 7919 Independence Blvd., State Police Building, Baton Rouge, LA 70806.

Simon G. Gonsoulin
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Probationary Period

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

There are no implementation costs (savings) for state or local government.

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

There will be no estimated affect on revenue collection for state or local government units.

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

Although the proposed action will affect potential employees by increasing the probationary period for achieving permanent status from 6 months to 1 year, this action will not result in any costs and/or economic benefits to that group. Employees on probation receive substantially the same economic benefits that permanent employees receive such as annual leave, sick leave, retirement, and eligibility for a merit increase after 6 months.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition and employment.

Simon G. Gonsoulin
Deputy Secretary
0605#031

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

CCAP—Job Search and Repair and Improvement Grants
(LAC 67:III.Chapter 51)

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.5102, 5103, 5104, 5107, and 5109 in the Child Care Assistance Program (CCAP).

Pursuant to ACF Guidance, ACYF-IM-CC-05-03, amendments are necessary to the Child Care Assistance program due to the devastation caused by Hurricanes Katrina and Rita, which has left numerous child care facilities destroyed or damaged and unsafe. The state currently provides Repair and Improvement Grants to certain child care providers but limits the receipt of these grants to one grant per state fiscal year. The amendment at §5107 will allow for the receipt of two Repair and Improvement Grants for state fiscal year 2005/2006 for providers in designated parishes.

Another consequence of the storms has been the significant loss of jobs throughout the state resulting in a dramatic increase in the number of people looking for work. CCAP does not currently provide assistance to low-income families who are searching for jobs. Therefore, the agency also plans to expand the eligibility criteria at §§5102, 5103, 5104, and 5109 to include job search as a qualifying activity for child care assistance. These amendments will help insure

that adequate child care is available and decrease the chance that the children will be left alone or in substandard care facilities.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 12. Child Care Assistance Program

Chapter 51. Child Care Assistance Program

Subchapter A. Administration, Conditions of Eligibility, and Funding

§5102. Definitions

Training or Employment Mandatory Participant (TEMP)—a household member who is required, to meet criteria described in §5103.B.4 including the head of household, the head of household's legal spouse or non-legal spouse, the MUP age 16 or older whose child(ren) need child care assistance, and the MUP under age 16 whose child(ren) live with the MUP and the MUP's disabled parent/guardian who is unable to care for the MUP's child(ren) while the MUP goes to school/work.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2826 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:1484 (July 2004), LR 31:2262 (September 2005), LR 32:

§5103. Conditions of Eligibility

A. - A.1. ...

B. Low-income families not receiving FITAP cash assistance, including former FITAP recipients who are given priority consideration, must meet the following eligibility criteria.

1. - 3. ...

4. Effective September 1, 2002, unless disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, Veterans' Administration Disability benefits for a disability of at least 70 percent, or unless disabled and unable to care for his/her child(ren) as verified by a doctor's statement or by worker determination, the TEMP must be:

a. employed or conducting job search for a minimum average of 25 hours per week and all countable employment hours must be paid at least at the Federal minimum hourly wage; or

b. ...

c. engaged in some combination of employment which is paid at least at the Federal minimum hourly wage or job search, or job training, or education as defined in §5103.B.4.b that averages, effective April 1, 2003, at least 25 hours per week;

d. ...

e. participation in Job Search as a countable TEMP activity can only be used for four calendar months per state fiscal year.

5. - 6. ...

7. The family requests child care services, provides the information and verification necessary for determining eligibility and benefit amount, and meets appropriate application requirements established by the state. Required verification includes birth verification for all children under

18 years of age, proof of all countable household income, proof of the hours of all employment or education/training or job search, and effective October 1, 2004, proof of immunization for each child in need of care.

B.8. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L.104-193, Act 58 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:1106 (July 2003), LR 29:1833 (September 2003), LR 30:496 (March 2004), LR 30:1487 (July 2004), LR 31:101 (January 2005), LR 31:2263 (September 2005), LR 32:

§5104. Reporting Requirements Effective February 1, 2004

A. ...

B. A Low Income Child Care household that is included in a Food Stamp semi-annual reporting household is subject to the semi-annual reporting requirements in accordance with §2013. In addition, these households must report the following changes within 10 days of the knowledge of the change:

1. ...

2. an interruption of at least three weeks or termination of any TEMP's employment or training or job search; or

3. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, 7 CFR Part 273, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:1487 (July 2004), amended LR 31:2263 (September 2005), LR 32:

Subchapter B. Child Care Providers

§5107. Child Care Provider

A. - H.2....

I. CCAP offers Repair and Improvement Grants to either licensed or registered providers, or to those who have applied to become licensed or registered, to assist with the cost of repairs and improvements necessary to comply with DSS licensing or registration requirements and/or to improve the quality of child care services.

1. - 1.c. ...

2.a. A provider can receive no more than one such grant for any state fiscal year. Exception: For the State Fiscal Year 2005/2006, providers in the following parishes will be eligible to receive two repair and improvement grants: Orleans, Plaquemines, Jefferson, St. Bernard, St. Tammany, Washington, Calcasieu, and Cameron.

b. To apply, the provider must submit an application form indicating that the repair or improvement or purchase is needed to meet DSS licensing or registration requirements, or to improve the quality of child care services. Two written estimates of the cost of the repair or improvement or purchase must be provided and the provider must certify that the funds will be used for the requested purpose. If the provider has already paid for the repair or improvement or purchase, verification of the cost in the form of an invoice or cash register receipt must be submitted. Reimbursement can be made only for eligible expenses incurred no earlier than six months prior to the application. If a provider furnishes

estimates to receive a grant, the grant must be spent for the requested purpose within three months of the date the grant is issued.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session, Act 58, 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:496 (March 2004), LR 30:1484, 1487 (July 2004), LR 31:102 (January 2005), LR 31:2263 (September 2005), LR 32:

§5109. Payment

A. - B.2.b. ...

3. The number of hours authorized for payment is based on the lesser of the following:

a. ...

b. the number of hours the head of household, the head of household's spouse or non-legal spouse, or the minor unmarried parent is working and/or attending a job training or educational program and/or conducting job search, each week, plus one hour per day for travel to and from such activity; or

B.3.c. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 (December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:1834 (September 2003), LR 30:1485 (July 2004), LR 31:2265 (September 2005), LR 32:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? Allowing job search as a TEMP activity will have a positive effect on the stability of the family because receipt of CCAP to conduct job search will result in more opportunities to secure employment.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? Allowing job search as a TEMP activity will have a positive effect on the education and supervision of their children since the children will be under adult supervision while the parent conducts job search.

3. What effect will this Rule have on the functioning of the family? The Rule will have no effect on the functioning of the family.

4. What effect will this Rule have on family earnings and family budget? Allowing two Repair and Improvement Grants for certain providers will have a positive effect on family earnings and family budget for these providers as they will be able to repair their centers or homes in order to reestablish, reopen, or improve their day care site. Allowing job search as a TEMP activity will have a positive effect on family earnings and family budget since child care will be provided to conduct job search which will result in more opportunities for employment and provide potential earnings and an increased family budget.

5. What effect will this Rule have on the behavior and personal responsibility of children? Allowing job search as a TEMP activity will have a positive effect on the behavior and personal responsibility of children since the parent may obtain employment, thereby being a positive role model.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this is strictly an agency function.

Interested persons may submit written comments by June 29, 2006, to Adren O. Wilson, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, LA 70804-9065. He is the person responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on June 29, 2006, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Ann Silverberg Williamson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: CCAP—Job Search and Repair and Improvement Grants

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

The proposed rule will result in an implementation cost of \$2,557,987 for FY 05/06 and \$5,300,000 for FY 06/07 and 07/08. An additional \$600 is needed for publication of rulemaking, printing policy changes, and form revisions in FY 05/06 resulting in a total estimated implementation cost of \$2,558,587. The agency has sufficient federal and state funds to implement the proposed action for fiscal years 05/06 through 07/08 if appropriations remain at the current fiscal year budget level.

Costs associated with the Repair and Improvement (R&I) Grants—The agency has issued approximately \$357,987 for 103 R&I grants in the eight affected parishes for July 2005 through January 2006. Assuming that the same providers in the eight affected parishes receive a second R&I Grant, the projected cost increase is \$357,987 for FY 05/06. There is no anticipated increase for FY 06/07 since the provisions apply only to FY 05/06.

Costs associated with the Job Search provision—Current annual federal and state Child Care subsidy expenditures are projected to be approximately \$106 million (\$11,660,000 state and \$94,340,000 federal). There will be an estimated 5% increase in subsidy expenditures due to the job search provision resulting in a projected annual expenditure of \$111.3 million, or an increase of \$5.3 million. \$5.3 million divided by 12 months = approximately \$440,000 increase per month. \$440,000 x 5 months (February 1 through June 30) in FY 05/06 = \$2.2 million increase for FY 05/06.

Total for FY 05/06—\$357,987 (R&I Grants) + \$2,200,000 (Job Search) + \$600 (printing and publishing) = \$2,558,587.

FY 06/07 and 07/08—Annual Child Care subsidy expenditures are projected to increase by \$5,300,000 for FY 06/07 and for FY 07/08 (current \$106,000,000 x 5% = \$5,300,000).

There will be no costs to local governmental units.

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)

Qualified child care providers in designated parishes will have additional funds to assist with repairs, improvements or purchases needed to reestablish or improve the quality of child care services. CCAP applicants and recipients will benefit from the proposed rule to include job search as an eligible activity to qualify for child care assistance. Applicants and recipients previously unable to obtain child care to seek employment will have a greater opportunity to secure employment with the aid of child care assistance.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

CCAP applicants and recipients conducting job search may be eligible for CCAP benefits, which will provide greater opportunity for employment and self-sufficiency.

Adren O. Wilson
Assistant Secretary
0605#071

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

Electronic Disbursement of Child Support (LAC 67:III.2518)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), by amending §2518, Electronic Disbursement of Child Support Payments. The agency will make it mandatory that all child support payments be distributed electronically pursuant to Section 454A(g) of the Social Security Act which allows the state to use its automated system to the maximum extent feasible for effective and efficient collection and disbursement of support payments.

As a result of delays with the distribution of child support payments experienced after Hurricanes Katrina and Rita, the agency chose to offer direct deposit and stored valued cards to its customers in designated parishes effective November 1, 2005. With the approaching 2006 hurricane season and the possibility of further delays in the distribution of child support payments, the agency will make electronic disbursement of child support payments mandatory effective April 1, 2006. This electronic disbursement process will allow the state to provide effective and efficient collections and disbursement of support payments.

A Declaration of Emergency effecting these changes was signed April 1, 2006, and published in the April issue of the Louisiana Register.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter D. Collection and Distribution of Support Payments

§2518. Electronic Distribution of Child Support Payments

A.1. Effective April 1, 2006, electronic disbursement of child support payments shall be mandatory except in the following situations:

- a. payments are forwarded to private collection agencies;
- b. physical or other disabilities impose a hardship to receive payments via electronic disbursement;
- c. the custodial parent is receiving FITAP benefits;
- d. payments are forwarded to the Non-Custodial parent;
- e. payments received are in excess of FITAP benefits; and
- f. any other exceptions as shall be determined by Support Enforcement Services to be necessary for effective program operations.

2. Electronic disbursement of child support includes direct deposits to the custodial parent's bank account (checking or savings) or payments to a stored value card account.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with section 454A(g) of the Social Security Act and PIQ-04-02.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:442 (March 2006), amended LR 32:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule will have no impact on 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? This Rule should have no effect on a person's authority and rights 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? The Rule will ensure that disbursements of child support payments are made in a timely and efficient manner. As a result, the family budget may be positively impacted.

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, this program is strictly an agency function.

Interested persons may submit written comments by June 29, 2006, to Adren O. Wilson, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, LA 70804-9065. He is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on June 29, 2006, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Ann S. Williamson
Secretary

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

**RULE TITLE: Electronic Disbursement of
Child Support**

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

Support Enforcement Services (SES) will require all child support payments to be made electronically by either direct deposit or direct payment cards. The agency estimates a savings of \$156,471 for FY 05/06 and \$671,880 for FY 06/07 and FY 07/08. The estimated FY 05/06 savings are the net of \$11,499 that includes \$600 for the cost of rulemaking and \$10,899 for salaries of Westaff personnel hired during Hurricanes Katrina and Rita to redirect child support checks to the customers.

SES currently issues 140,203 child support checks monthly. Based on an 85 percent participation rate, 119,173 checks will no longer be mailed each month (140,203 x .85 = 119,173). The total savings per month are calculated as follows:

Postage savings:	119,173 x .293 = \$34,918
Envelope savings:	119,173 x .013 = \$1,549
Check stock savings:	119,173 x .008 = \$953

Bank check processing	
fee savings:	119,173 x .155 = \$18,570
Total savings per month	= \$55,990

The agency will issue direct payment cards to all customers not currently enrolled in direct deposit beginning April 2006. Total estimated savings for FY 05/06 will be \$55,990 x 3 months = \$167,970.

The estimated savings for FY 06/07 and 07/08 are \$55,990 x 12 months = \$671,880.

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

Implementation of this rule will have no effect on state and local revenue collections.

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

There are no anticipated costs to any non-governmental groups. Custodial parents may or may not incur fees associated with the use of the direct payment card (Chase Direct Payment Card) or direct deposit. The Chase Direct Payment Card offers free point-of-sale transactions, free monthly statements and one free ATM withdrawal per deposit at Chase and All Point ATMs. Regarding direct deposit, most banks offer free checking accounts when a direct deposit is established so it is not anticipated that there will be fees involved with this service. Therefore, the agency is unable to project fee amounts that will be incurred by its customers as they may in fact not incur any fees. Additionally, Chase has been unable to project the amount of fees that the customers/clients might incur.

There is no anticipated economic benefit to any persons or nongovernmental groups.

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

The proposed rule will have no impact on competition and employment.

Adren O. Wilson
Assistant Secretary
0605#070

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office