

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Forestry

Fire Danger Ratings (LAC 7:XXXIX.1111 and 1113)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 (B), and under the authority of R.S. 3:3; 30:2057(B)(5)(c) and 33:1236(31)(b)(iii), the Commissioner of Agriculture and Forestry intends to adopt the attached rules and regulations for the purpose of identifying the presence of high fire danger, which will permit certain parishes to declare bans on outdoor burning as authorized in Act Number 376 of the 2006 Regular Session of the Louisiana Legislature.

The above referenced Act grants authority for prohibition of certain outdoor burning for parishes with populations below 90,000. That authority is limited to areas where fire danger rating is high, as defined by the Louisiana Department of Agriculture and Forestry. To allow for parishes to exercise the authority granted by Act 376, it is necessary for the Louisiana Department of Agriculture and Forestry to adopt this Rule which provides the fire danger rating upon which the parishes must rely for their authority.

This Rule complies with and is enabled by R.S. 3:3, 30:2057(B)(5)(c) and 33:1236(31)(b)(iii).

This proposed Rule may be viewed in its entirety in the Emergency Rule section of this edition of the Louisiana Register.

Family Impact Statement

The proposed amendment to LAC 7:XXXIX.Chapter 11 for the purpose of identifying the presence of high fire danger, which will permit certain parishes to declare bans on outdoor burning as authorized in Act Number 376 of the 2006 Regular Session of the Louisiana Legislature should not have any known or foreseeable impact on any family as defined by R.S. 49:972 D or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

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

Interested persons should submit written comments on the proposed Rule to Paul Frey through the close of business on November 27, 2006 at P.O. Box 1628, Baton Rouge, LA 70821 (5825 Florida Blvd, Baton Rouge).

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Fire Danger Ratings

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

There will be no implementation costs or savings to state or local governmental units.

The Commissioner of Agriculture and Forestry intends to amend and adopt these rules and regulations for the process of identifying the presence of high fire danger, which will permit certain parishes to declare bans on outdoor burning as authorized in Act 376 of the 2006 Regular Session of the Louisiana Legislature.

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

There will be no effect on revenue collections of state or local governmental units as a result of this action.

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

There should be no economic benefits to any person or group, as a result of these rules. There is the possibility that some costs could arise for affected persons or non-governmental groups from debris removal during a period of time in which a parish has declared a ban on outdoor burning.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0610#051

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of the Secretary

Regional Awards and Matching Grant Program
(LAC 13:III.Chapter 17)

The Department of Economic Development, Office of the Secretary and Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 36:104 and 36:108 hereby give notice of their intent to adopt the following Rule of the Regional Awards and Matching Grant Program, and to create LAC 13:III.Chapter 17.

The Department of Economic Development, Office of the Secretary and Office of Business Development, have found a need, since no such rules exist at this time, to provide rules for the creation and regulation of the Regional Awards and Matching Grant Program in order to provide assistance to eligible non-profit economic development organizations (EDOs) in their comprehensive and strategic marketing and/or recruitment plans for towns, cities, parishes and

regions as a site for new Regional Awards and Matching Grant Awards, which will help to successfully secure the location, expansion, creation or retention of businesses for Louisiana and jobs for Louisiana citizens. This Rule will help to enhance the growth and stability of Louisiana's entrepreneurial business and/or industrial environment by making available regions to support this environment, and without this Rule the state may suffer the loss of business investment and economic development projects which would create or retain jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

Chapter 17. Regional Awards and Matching Grant Program

§1701. General

A. Act 17 of the 2006 Louisiana Legislature, providing for the general appropriations for the state of Louisiana for fiscal year 2006-07, appropriated \$5,625,000 to the Louisiana Department of Economic Development ("LED" or "department") for the Regional Awards and Matching Grant Program ("program"). The following rules are for the purposes of implementation of the program and to provide funding for projects in accordance with the goals of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:

§1703. Program Description

A. The program is designed to provide assistance to eligible economic development organizations in their comprehensive and strategic marketing and/or recruitment plans for towns, cities, parishes and regions as a site for new and/or expanded business development. The program has two objectives:

1. Regional Awards; and
2. Matching Grant Awards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:

§1705. Eligible Participants

A. Eligible applicants for the benefits of this program shall be nonprofit economic development organizations ("EDO") established in accordance with Louisiana law and in good standing in the state of Louisiana. The EDO must have as one of its primary objectives promoting Louisiana to national and world markets for business and industrial location and expansion. Applicants must have federal and state tax identification numbers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:

§1707. Qualifications

A. Eligible applicants may qualify for grants in the manner hereinafter provided under this program through either:

1. Regional awards that are to be administered through an association of the EDOs acting in concert to promote regional economic development strategies for the region; or through

2. Matching grants to an EDO or a combination of EDOs from LED for a specific project marketing industrial location and expansion.

B. Under either regional awards or matching grants, funding the awards must be for implementation of new programs through the fulfillment of deliverables in accordance with the goals and objectives as shall be hereinafter provided.

C. Eligible funding shall be consistent with the examples of eligible funding as provided by LED as an exhibit to the Cooperative Endeavor Agreements ("CEA") for either the Regional Awards or the Matching Grant Program. Generally, the exhibits to the CEA will provide for funding of core production costs of marketing and promotional activities and may distinguish the availability of allowable recovery for administrative costs between Regional Awards and Matching Grant Program awards as hereinafter provided.

D. Award agreements shall be executed and performed in accordance with statutes, rules and Executive Orders as administered by the Louisiana State Division of Administration, Office of Contract Review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:

§1709. Regional Awards ("Tier 1")

A. Regional Awards shall total 33 percent of the total appropriation of the Louisiana Legislature to this program and shall be allocated to the eight regions of this state in accordance with the map to be provided by LED. The regions will closely approximate the regions of the state presently served by LED regional representatives. Subject to Paragraph C.7 below, each region shall receive such portion of the available amount in accordance with its percentage of population of the state as established by the most recent census of the state. The Secretary of LED shall determine the association of the EDOs for each region with which the department will enter into a CEA through which deliverables reflective of the goals and objectives of this program shall be established. The EDO identified by the Regional Association and approved by LED as the fiduciary agent for the region shall be responsible for coordination within the region to provide for the delivery of certain administrative documents. The costs related to the production of these documents are to be paid for using funds provided by Louisiana Economic Development (LED).

B. Each region shall produce the following core deliverables as a minimum: A labor survey, (regional funds may also be used to pay for synchronist use fees), an inventory of industrial/commercial buildings, an inventory of industrial/commercial building sites, an inventory of industrial parks with available building sites, a comprehensive existing business and industry report (regional overview, major employers, etc.), a comprehensive feature attraction report, a comprehensive new infrastructure report, and all available annual reports from major institutions within the region (colleges, hospitals, etc.). LED, at its sole discretion, may also require additional deliverables

from any region. The balance of regional funds available shall be spent based on a written plan submitted to and approved by LED. This plan will be approved by the issuance and execution of a Cooperative Endeavor Agreement which will be drafted by LED after submission of a Regional Award application.

C. At a minimum, each regional association shall demonstrate the following to the Secretary of LED:

1. that its core responsibility is to market and promote the recruitment of new and diversified businesses in accordance with a regional marketing plan;
2. that it will act in a fiduciary manner for the EDOs of the region;
3. that it has the capacity to administer the cooperative endeavor agreements (CEAs) for the region;
4. that it has the capacity to act as a fiscal agent for the funds made available to the region in accordance with the CEA;
5. that it is constituted by EDOs representing a majority of the parishes and a majority of the population in the region;
6. that the terms of agreement through which the regional association operates provide for participation by the EDO of each parish of the region through rotation of duties and responsibilities in the administration of the deliverables, goals, objectives and funding of the CEA between the association and LED;
7. that it is acting to market and promote regional development in accordance with a Regional Marketing Plan that is either established by the association or is adoptive of the strategic marketing plans developed by the EDOs comprising the association; and
8. notwithstanding population percentages for each region, the minimum funding for any region is \$150,000 and the maximum amount of funding for any region is \$500,000.

D. LED and each regional association shall enter into agreements that shall include deliverables, goals and objectives for projects to be funded by the regional association for eligible EDOs in the region. In addition to deliverables, goals and objectives and such other necessary terms and conditions as may be provided by the CEA between LED and the regional association, projects shall be funded only upon providing the following:

1. a detailed budget and complete description of fund use;
2. demonstration that regional marketing initiatives are being addressed through the funding;
3. use of no more than 20 percent of the funding for eligible administrative costs;
4. data base, labor surveys, real estate information, industrial site and building surveys and selection and other empirical data obtained or used in connection with the award shall be provided to the LED for its research and data collection use;
5. the Secretary of LED may vary the terms and conditions of the CEA with regional associations including deliverables, goals and objectives and exhibits in order to accomplish necessary and appropriate marketing and promotion of business and industrial development and redevelopment in those regions including parishes of the state most affected by the hurricanes of 2005; and

6. the agreement shall provide for submission of projects meeting the goals and objectives of the agreement by the regional association for advance approval by LED and for funding of the project by LED upon completion of the project and the submission by the regional association of the deliverables in accordance with the goals and objectives of the agreement.

E. Tier 1—LED Regional Funds—Eligible Uses

| Tier 1—LED Regional Funds—Eligible Uses |
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| Examples of eligible projects to be included by exhibit to the cooperative endeavor agreements between LED and the regional economic development associations: |
| <ul style="list-style-type: none"> • Specific, time-limited research studies. • Up to 20 percent of funds may be used for administrative costs (e.g., salaries, benefits etc.) • Promotion through inclusion in computer databases to targeted audiences such as relocation consultants. • Direct mail pieces to targeted audiences such as relocation consultants (does not include postage). • Trade show exhibit fees and/or registration fees for out-of-state events that support national or international strategic marketing events. Costs may include booth design, giveaway items or other show specific costs. No individual participant registration, travel or per diem costs. • Production of printed materials, such as brochures and inserts. • Production of slide presentations, videotapes, DVDs and CD ROMs intended for dissemination to relocation consultants, corporate executives, or other industry or business representatives involved in expansion or relocations activities. • Advertising through mass media, including newspaper, magazines, radio, television, Internet and billboards. • Public relations expenses related to the production of an event, such as production of media kits, media training, ongoing media contact, on-site coordination of media, set-up of interview area and media room, and costs associated with special broadcast media set-up requirements. • Design of an Internet web site, not for ongoing Internet access or website hosting costs. • Familiarization tours for site location consultants. To be used for consultant related expenses only, and may include consultant travel, meals, and lodging. |

F. Tier 1—LED Regional Funds—Ineligible Uses

| Tier 1—LED Regional Funds—Ineligible Uses |
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| Examples of ineligible projects to be included by exhibit to the cooperative endeavor agreements between LED and the regional economic development associations. Examples of ineligible projects or expenses: |
| <ul style="list-style-type: none"> • Salaries, benefits or administrative fees exceeding 20 percent of funds provided. • Entertainment. • Overhead expenses (office space, furniture, fixtures, equipment, etc.). • Travel, food, beverages, and/or lodging for any persons. This includes volunteers and paid staff of economic development organizations. • Equipment purchases/rentals. • Beauty pageants, parades, school advertising, local promotions, sponsorships and things of a similar nature. • Promotional items, unless part of an out-of-state marketing activity. • Stationery, toll-free numbers, membership solicitation literature. • Unreasonable and excessive agency costs that exceed 25 percent of the total cost for printed material (Agency costs are costs not billed directly from prepress, printing, illustrations or photography by vendors.). • Unreasonable or excessive technical costs. • Construction costs. • Activities or materials that violate the law. • Internet access or web site hosting costs. |

| Tier 1—LED Regional Funds—Ineligible Uses |
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| • Organization membership directories. |
| • Trade show/expo hosting or sponsorships. |
| • Alcoholic beverages. |
| • Infrastructure such as land, roads, utilities or buildings. |

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:

§1711. Matching Grant Awards ("Tier 2")

A. The remainder of funds available shall be for matching grant awards. Any eligible EDO or a combination of eligible EDOs may apply to LED for a matching grant award which shall include deliverables, goals and objectives for the marketing and promotion of business and industrial development consistent with regional and statewide strategic marketing for such development. Matching Grant applications demonstrating the use or development of new or innovative programs for the marketing and promotion of business and industrial development shall be given a preference in determining suitability for the matching grant.

B. The award agreement may provide such terms and conditions as are necessary to the fulfillment of the purposes of the award and shall include the following terms and conditions:

1. the award may not exceed \$100,000;
2. the award must be matched dollar for dollar or its equivalents by the EDO or combination of EDOs making application for the award;
3. a detailed budget and complete description of fund use;
4. data, surveys and/or other empirical information obtained or used in connection with the award shall be provided to the LED for its research and data collection use; and
5. the secretary of LED may vary the terms and conditions of the award including deliverables, goals and objectives and exhibits in the parishes of the state most affected by the hurricanes of 2005 so as to use such grants or awards to achieve a stabilization of resources for the EDOs in the affected areas.

C. Tier 2—LED Matching Grant Funds—Eligible Uses

| Tier 2—LED Matching Grant Funds—Eligible Uses |
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| Examples of eligible projects to be included by exhibit to the cooperative endeavor agreements between LED and the direct grant recipients: |
| • Specific, time-limited research studies. |
| • Promotion through inclusion in computer databases to targeted audiences such as relocation consultants. |
| • Direct mail pieces to targeted audiences such as relocation consultants (does not include postage). |
| • Trade show exhibit fees and/or registration fees for out-of-state events that support national or international strategic marketing events. Costs may include booth design, giveaway items or other show specific costs. No individual participant registration, travel or per diem costs. |
| • Production of printed materials, such as brochures and inserts. |
| • Production of slide presentations, videotapes, DVDs and CD ROMs intended for dissemination to relocation consultants, corporate executives, or other industry or business representatives involved in expansion or relocations activities. |

| Tier 2—LED Matching Grant Funds—Eligible Uses |
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| • Advertising through mass media, including newspaper, magazines, radio, television, Internet and billboards. |
| • Public relations expenses related to the production of an event, such as production of media kits, media training, ongoing media contact, on-site coordination of media, set-up of interview area and media room, and costs associated with special broadcast media set-up requirements. |
| • Design of an Internet web site, not for ongoing Internet access or website hosting costs. |
| • Familiarization tours for site location consultants. To be used for consultant related expenses only, and may include consultant travel, meals, and lodging. |

D. Tier 2—LED Matching Grant Funds—Ineligible Uses

| Tier 2—LED Matching Grant Funds—Ineligible Uses |
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| Examples of ineligible projects to be included by exhibit to the cooperative endeavor agreements between LED and the direct grant recipients. Examples of ineligible projects or expenses: |
| • Salaries, benefits or administrative fees. |
| • Entertainment. |
| • Overhead expenses (office space, furniture, fixtures, equipment, etc.). |
| • Travel, food, beverages, and/or lodging for any persons. This includes volunteers and paid staff of economic development organizations. |
| • Equipment purchases/rentals. |
| • Beauty pageants, parades, school advertising, local promotions, sponsorships and things of a similar nature. |
| • Promotional items, unless part of an out-of-state marketing activity. |
| • Stationery, toll-free numbers, membership solicitation literature. |
| • Unreasonable and excessive agency costs that exceed 25 percent of the total cost for printed material (Agency costs are costs not billed directly from prepress, printing, illustrations or photography by vendors.). |
| • Unreasonable or excessive technical costs. |
| • Construction costs. |
| • Activities or materials that violate the law. |
| • Internet access or web site hosting costs. |
| • Organization membership directories. |
| • Trade show/expo hosting or sponsorships. |
| • Alcoholic beverages. |
| • Infrastructure such as land, roads, utilities or buildings. |

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:

Family Impact Statement

This proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D, or on family formation, stability and autonomy. There should be no known or foreseeable effect on: the stability of the family; the authority and rights of parents regarding the education and supervision of their children; the functioning of the family; on family earnings and family budget; the behavior and responsibility of children; or the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments to Richard House, Executive Counsel, Legal Division, Louisiana Department of Economic Development, P.O. Box 94185, Baton Rouge, LA 70804-9185; or physically delivered to Capitol Annex Building, Second Floor, 1051 North Third Street, Baton Rouge, LA, 70802. All comments

must be submitted (mailed and received) not later than 5 p.m., on Friday, November 24, 2006.

Michael J. Olivier
Secretary

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

**RULE TITLE: Regional Awards and
Matching Grant Program**

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

The Legislature appropriated \$75,000 and one position to administer this new program. Other than this, there will be no incremental costs or savings to state or local governmental units due to the implementation of these Rules and this Program. Current staff of the Department will be sufficient to process and monitor these Rules within this Program. Other than the appropriated amount and position shown above, there will be no increase to costs or savings. Any other needed funding for this Program will come from the regular authorized appropriations received by the Department of Economic Development.

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

There is no expected impact or 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 anticipated additional costs to directly affected persons or non-governmental groups. The economic benefits of these Rules will assist eligible non-profit economic development organizations (EDOs) in their comprehensive and strategic marketing and/or marketing and/or recruitment plans for towns, cities, parishes and regions as a site for new Regional Awards and Matching Grant Awards, which will help to successfully secure the location, expansion, creation or retention of businesses for Louisiana and jobs for Louisiana citizens. Such awards will also cause new or expanding Louisiana-based businesses to make new investments or increase their existing investment in Louisiana-based economic development projects, and will create and/or retain jobs for Louisiana citizens. These Rules will help to enhance the growth and stability of Louisiana's entrepreneurial business and/or industrial environment by making available regions to support this environment; and they are also intended to take advantage of opportunities for business development in Louisiana, provide assistance in the formation and expansion of businesses in Louisiana, encourage the creation of jobs, including Quality Jobs, for the citizens of Louisiana, increase the State's production capabilities, and increase the diversification of the State's economy; all of which will enhance and expand economic development throughout Louisiana and improve the standard of living and the quality of life of Louisiana citizens.

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

Investments in eligible non-profit economic development organizations (EDOs) and in their comprehensive and strategic marketing and/or recruitment plans for towns, cities, parishes and regions as a site for new and expanding Louisiana-based businesses as contemplated by the Rule will enhance this State's economic development through the formation of new and the expansion of existing businesses, which investments in Louisiana will help create and/or retain jobs for Louisiana citizens and thereby enhance and expand economic

development throughout Louisiana. By taking advantage of such EDOs and their comprehensive and strategic marketing and/or recruitment plans, business opportunities (which may otherwise be exported out of Louisiana), local development, expansion and operation of such businesses will create increased competition among businesses and correspondingly increase employment prospects for Louisiana residents throughout the state.

Richard House
Executive Counsel
0610#075

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of the Secretary
Office of Business Development
Louisiana Economic Development Corporation**

**Workforce Development and Training Program
(LAC 13:III.303 and 311)**

The Department of Economic Development, the Office of the Secretary, the Office of Business Development, and the Louisiana Economic Development Corporation, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 51:2331 et seq., 36:104, 36:108 and 51:2312, hereby give notice of their intent to amend and supplement portions of LAC 13:Part III, Chapter 3, being the Rules of the Workforce Development and Training Program.

The Department of Economic Development, the Office of the Secretary, the Office of Business Development, and the Louisiana Economic Development Corporation, have found a need to amend and supplement the Rules for the regulation of the Workforce Development and Training Program in order to provide in Section 303 thereof a definition of the term "Quality Jobs"; and to amend and provide in Section 311, Subsection B.1, that the creation of jobs meeting Louisiana standards for quality jobs or the training of employees holding jobs meeting Louisiana standards for quality jobs satisfies the criteria for awards under this program. These revisions to these Rules will help to enhance the growth and stability of Louisiana's entrepreneurial business and/or industrial environment by making available awards under this program to businesses creating such quality jobs and/or training employees holding such quality jobs; and without these revisions the state may suffer the loss of business investment and economic development projects which would create or retain jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

**Chapter 3. Workforce Development and Training
Program**

§303. Definitions

* * *

Quality Jobs—employed positions which are not temporary positions meeting the Louisiana standards for *quality jobs* as provided by the "Louisiana Quality Jobs Program Act", R. S. 51:2451 through 2462, as codified in the

Louisiana Administrative Code, Title 13, Part I, Chapter 11, Sections 1101 through 1131, as amended.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq., 36:104, 36:108 and 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:44 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:242 (February 1999), LR 25:1665 (September 1999), LR 26:241 (February 2000), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:1065 (July 2003), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development, and Louisiana Economic Development Corporation, LR 33:

§311. Criteria

A. - A.4. ...

B. Pre-Employment, Upgrade and On-the-Job Training

1. Applicants must create in this state at least 10 net new full-time permanent jobs or at least 10 net new jobs meeting Louisiana standards for quality jobs, unless upgrade training is involved. Upgrade training must be provided to a minimum of 10 full-time permanent employees or to a minimum of 10 employees holding jobs meeting Louisiana standards for quality jobs.

B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq., 36:104, 36:108 and 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:45 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1642 (December 1997), LR 25:243 (February 1999), LR 25:1666 (September 1999), LR 26:242 (February 2000), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:1066 (July 2003), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development, and Louisiana Economic Development Corporation, LR 33:

Family Impact Statement

This proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D, or on family formation, stability and autonomy. There should be no known or foreseeable effect on: the stability of the family; the authority and rights of parents regarding the education and supervision of their children; the functioning of the family; on family earnings and family budget; the behavior and responsibility of children; or the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments to Richard House, Executive Counsel, Legal Division, Louisiana Department of Economic Development, P. O. Box 94185, Baton Rouge, LA 70804-9185; or physically delivered to: Capitol Annex Building, Second Floor, 1051 North Third Street, Baton Rouge, LA, 70802. All comments must be submitted (mailed and received) not later than 5 p.m., on Friday, November 24, 2006.

Michael J. Olivier
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Workforce Development and Training Program

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

There are no implementation costs or savings to state or local governments from these proposed rule changes. The proposed rule is a technical change to make rules consistent with current statutes.

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

There is no expected impact or effect on revenue collections of state or local governmental units from the proposed rule changes.

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

There are no anticipated additional costs to directly affected persons or non-governmental groups from the proposed rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated costs effects on competition or employment from the proposed rule changes.

Richard House
Executive Counsel
0610#074

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State
Accountability System
(LAC 28:LXXXIII.307, 409, 515,
703-707, 3905, 4001, and 4527)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC 28, Part Number LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components.

These changes take advantage of new and existing flexibility outlined in guidance for No Child Left Behind and address situations, including changes necessitated in response to the hurricanes of 2005, which were not considered when the accountability policy was initially written.

**Title 28
EDUCATION**

**Part LXXXIII. Bulletin 111—The Louisiana School,
District, and State Accountability System**

§307. Incentive Points

A. Students repeating the 4th or 8th grade must retake all parts of the LEAP exam.

B. If, during spring testing, a repeating 4th grade student or Option I 8th grade student scores at a higher achievement level on a LEAP test of mathematics, English language arts, science or social studies than any previous attempt (of the same test), the retaining school shall receive 50 incentive points per improved subject in its accountability index. A student may earn a maximum of 200 incentive points for his/her school.

C. Beginning with summer school results in 2005, if a 4th or 8th grade student scores at a higher achievement level on a LEAP test of mathematics or English language arts than any previous attempt (of the same test), the school where the student tested in the previous spring earns 50 incentive points per improved subject. The incentive points will be included in School Performance Score calculations the following academic year.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2739 (December 2003), amended LR 31:2422 (October 2005), LR 32:1021 (June 2006), LR 33:

F. Example of 9-12 Assessment Index Calculation

1. Non-dropout rates in this example are; 9th-95.0 percent, 10th-98.0 percent, and 11th-99.0 percent.

| Grade | Subject | Subject-Test Index Score | Dropout Adjustment | Adjusted Subject-Test Index Score | Unit Weight | Weighted Adjusted Subject-Test Index Score |
|-----------------------|---------|--------------------------|--------------------|-----------------------------------|------------------|--|
| 9 | ELA | 100 | .990 | 99.0 | 1 | 99.0 |
| 9 | MTH | 50 | .990 | 49.5 | 1 | 49.5 |
| 10 | ELA | 100 | 1.010 | 101.0 | 1.25 | 126.3 |
| 10 | MTH | 150 | 1.010 | 151.5 | 1.25 | 189.4 |
| 11 | SCI | 50 | 1.040 | 52.0 | 1.25 | 65.0 |
| 11 | SS | 50 | 1.040 | 52.0 | 1.25 | 65.0 |
| Sums | | | | | 7 | 594.2 |
| 9-12 Assessment Index | | | | | 594.2 ÷ 7 = 84.9 | |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1022 (June 2006), amended LR 33:

§515. State Assessments and Accountability

A. - E. ...

F. Scores shall not be included in school performance score calculations for LEP students who have not been enrolled in a school in the United States for one full school year.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December

§409. Calculating a 9-12 Assessment Index

A. For all grades 9-11, use the values from the table in §405.A, above.

B. Adjust each subject-test index by the corresponding dropout adjustment factor.

1. The 9th grade dropout adjustment factor is the previous year's 9th grade non-dropout rate plus 4.0 percent (100.0% - 9th grade DO rate + 4.0%).

2. The 10th grade dropout adjustment factor is the product of the previous year's 9th grade non-dropout rate plus 4.0 percent and the 10th grade non-dropout rate plus 4.0 percent [(100.0% - 9th grade DO rate + 4.0%) x (100.0% - 10th grade DO rate + 4.0%).]

3. The 11th grade dropout adjustment factor is the product of the previous year's 9th grade non-dropout rate plus 4.0 percent and the 10th grade non-dropout rate plus 4.0 percent [(100.0% - 9th grade DO rate + 4.0%) x (100.0% - 10th grade DO rate + 4.0%) x (100.0% - 11th grade DO rate + 4.0%).]

C. Weight each adjusted subject-test index score by the corresponding value from the table below.

| Unit Weights for 9-12 Assessment Index | | | | | |
|--|------|------|---------|----------------|-------|
| Grade | ELA | Math | Science | Social Studies | Total |
| 9th Grade | 1 | 1 | | | 2 |
| 10th Grade | 1.25 | 1.25 | | | 2.5 |
| 11th Grade | | | 1.25 | 1.25 | 2.5 |

D. Sum all weighted values from step C, above.

E. Divide the sum from step D, above, by the sum of all weights applied to subject-test index scores from the table above (in C). This quotient is the 9-12 Assessment Index.

2003), amended LR 31:2422 (October 2005), LR 32:1022 (June 2006), LR 33:

§703. Inclusion of Students in the Subgroup Component

A. - A.2. ...

3. Not exempted from testing due to medical illness, death of the student's family member(s), or the student being identified as LEP and in a-school in the United States for less than one full academic year.

B. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004), amended LR 30:2256 (October 2004),

LR 30:2445 (November 2004), LR 31:912 (April 2005), LR 31:2762 (November 2005), LR 33:

§705. AMO

A. The Annual Measurable Objective (AMO) is the percent of students required to reach the proficient level in a given year on the standards-based assessments, which through 2005 will include English language arts and mathematics tests for 4th, 8th, and 10th grades.

1. Proficient = a score of basic, mastery or advanced.
2. Beginning in 2006, English language arts and mathematics test results from grades 3-8 and 10 LEAP, GEE, iLEAP, LAA 1, and LAA 2 will be used to calculate the percent proficient for the Subgroup Component (for schools and Districts).

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 33:

§707. Safe Harbor

A. - D. ...

E. For 2005-06 only, Safe Harbor calculations (for schools and Districts) shall not use iLEAP or LAA 2 results.

F. Beginning in 2006-07 for schools and Districts, English language arts and mathematics test results from grades 3-8 and 10 LEAP, GEE, iLEAP, LAA 1, and LAA 2 will be used to calculate the reduction of non-proficient students in Safe Harbor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 33:

§3905. Inclusion of Alternate Assessment Results

A. Beginning with the 2005-2006 Baseline SPS and Subgroup AYP calculations, LEAP Alternate Assessment Level 1 and Level 2 shall be included in all SPS and Subgroup AYP calculations.

B. LAA 1 scores shall be converted according to the following scale.

| LAA 1 Score | Level | Assessment Points |
|-------------|-------------------|-------------------|
| 0.00-0.49 | Unsatisfactory | 0 |
| 0.50-2.49 | Approaching Basic | 50 |
| 2.50-3.49 | Basic | 100 |
| 3.50-4.49 | Mastery | 150 |
| 4.50-5.00 | Advanced | 200 |

1. Students taking LAA 1 or LAA 2 exams shall be included in accountability calculations at the grade level in which they are enrolled in the Student Information System (SIS).

C. LAA 2 shall first be administered in Spring 2006 to students in grades 4, 8, 10, and 11. In Spring 2007, LAA 2 shall be given in grades 4-11.

1. Each LAA 2 exam will be assigned 1 of 4 performance levels (Basic, Approaching Basic, Foundational, and Pre-Foundational) and each performance level will be assigned points for use in assessment index calculations as follows.

| LAA 2 Performance Level | Assessment Points |
|-------------------------|-------------------|
| Basic | 100 |
| Approaching Basic | 75 |
| Foundational | 50 |
| Pre-Foundational | 0 |

2. Students scoring Basic on a LAA 2 exam will be considered Proficient in Subgroup Component calculations.

D. Students participating in either LEAP Alternate Assessment Level 1 (LAA 1) or Level 2 (LAA 2) will be assigned scores of zero in SPS component calculations and scores of non-proficient in subgroup component calculations if they do not meet the specific participation criteria as stated in *Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 30:767 (April 2004), LR 31:2763 (November 2005), LR 33:

§4001. Proficient in English

A. To be considered English proficient a student who is limited English proficient must score for:

1. Two Years
 - a. at Basic or above on all subjects of the LEAP, GEE, iLEAP, LAA 1, and/or LAA 2 assessments, and/or
 - b. at or above the 40th percentile composite score on IOWA (through Spring testing 2005), and
2. One Year

a. at the Full English Proficiency Level V on the English Language Development Assessment (ELDA) in listening, speaking, reading, and writing;

3. if, after scoring Level V on all four domains of ELDA, a limited English proficient student:

- a. for three consecutive years does not score Basic or above at least twice on all subjects of the LEAP, GEE, iLEAP, LAA 1, and/or LAA 2; and
- b. after evaluation, it is determined the academic difficulties are not a result of a lack of proficiency in English;
- c. the student shall no longer be classified as limited English proficient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:767 (April 2004), amended LR 33:

§4527. Disaster Considerations for the School and District Subgroup Component

A.1. Schools and districts shall receive a one year exclusion from the Subgroup Component in accountability if they:

- a. reside within the boundaries of parishes declared natural disaster areas by the President of the United States; and
- b. were closed due to the declared disaster for 18 consecutive school days.

2. Any school eligible for this exclusion that does pass the Subgroup Component shall be considered as passing the Subgroup Component.

B. For the Subgroup Component in 2006 and for all schools not excluded in Subsection A (above), displaced students shall comprise a separate subgroup and be excluded from all other subgroups.

1. The Displaced Students subgroup shall be evaluated for participation, and any school or district that did not test at least 95.0 percent of these students in ELA and math will fail the Subgroup Component.

2. The Displaced Students subgroup test results shall be reported on all appropriate Subgroup Component reports; but:

a. schools will not be classified as failing the Subgroup Component as a result of the academic performance of the Displaced Students subgroup.

3. Due to the one year lag in attendance and dropout/graduation data, and as required by the U.S. Department of Education, the Displaced Students subgroup attendance and dropout/graduation data shall be used in 2006-2007 in the appropriate subgroups, not as displaced students. District should make extra effort during the clean-up period to verify that any exit and attendance data is accurate.

4. All students in the Displaced Students subgroup that did not score proficient in ELA and/or math at the 2006 spring test administration must receive remediation in academic year 2006-2007.

5. The displaced students shall not be considered a separate subgroup the following academic year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1414 (August 2006), amended LR 33:

Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit comments until 4:30 p.m., December 9, 2006, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: The Louisiana School, District, and State Accountability System

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

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

These changes are in response to new and existing flexibility outlined in No Child Left Behind and address situations not considered when policy was initially written, including changes necessitated in response to the hurricanes in 2005.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
0610#077

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment
Standards and Practices
(LAC 28:XCI.105, 107, 109, 111, 305, 307, 309, 311,
312, 313, 315, 501, 511, 1801, 2301, 2303, 2305,
2307, 2309, 2311, 2313, 2315, 2317, 2319, 2321,
2323, 2701, 3305, 3306, 3307, 3501, and 3509)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 118—Statewide Assessment Standards and Practices*. Bulletin 118 contains the State Board of Elementary and Secondary Education (SBESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration.

Title 28

EDUCATION

Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 1. General Provisions

§105. Testing and Accountability

A. - B. ...

C. All LEAs must administer all assessments according to the testing schedule dates approved by SBESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1526 (July 2005), amended LR 33:

§107. Assessment Programs

A - G. ...

H. End-of-Course Tests (EOCT). The EOCT will be administered to high school students enrolled in and/or receiving credit for an EOCT course online beginning fall 2007. The tests, criterion-referenced and standards-based will be phased in over a period of six years to assess student mastery of eight high school courses.

I. The Iowa Tests. The Iowa Tests of Basic Skills (ITBS), used in grades 3, 5, 6, and 7, and the Iowa Tests of Educational Development (ITED), used in grade 9, are norm-referenced tests that provide comparative data to evaluate student, school, and district performance. The last administration of The Iowa Tests will occur in the academic year 2004-2005.

J. Graduation Exit Examination ("old" GEE). The "old" GEE measures curricula-based proficiencies in English Language Arts, Mathematics, Written Composition, Science, and Social Studies. The administration of the "old" GEE became a district responsibility beginning with the 2003-2004 academic year.

K. LEAP Alternate Assessment-B (LAA-B). The LAA-B, which was administered from 2000 through 2003, assessed special education students who met specific criteria at their functioning levels in language/reading and/or mathematics, rather than at their enrolled grade levels.

L. National Assessment of Educational Progress (NAEP). Also known as the Nation's Report Card, NAEP is administered nationally to a random stratified sample population of students to gather data about subject-matter achievement, instructional experiences, and school environment.

M. Field Tests. Representative student populations from school districts throughout Louisiana are chosen to field test new items to be used in future statewide assessments, including LEAP, GEE, ELDA, and iLEAP. The items are tested, scored, ranked statistically, and identified as effective or ineffective.

N. Placement Tests. Students from out-of-district or in-state educational settings, such as approved home study programs or nonpublic schools, who wish to enroll in public schools at grades 5 and 9 must take a placement test if they have not taken and met the requirements for LEAP. Students taking the placement test must score basic or above in English Language Arts or Mathematics and approaching basic or above in the other to enroll in grade 5 and score approaching basic or above in English Language Arts and Mathematics to enroll in grade 9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1526 (July 2005), amended LR 32:233 (February 2006), LR 33:

§109. Assessment Populations

A. - A.3.c. ...

d. limited English proficient students. These are students who are aged 3 through 21; who were not born in the United States or whose native language is a language other than English; who are Native Americans or Alaska Natives or native residents of the outlying areas and come from an environment where a language other than English has had significant impact on their level of English language proficiency; or who are migratory, whose native language is a language other than English, and who come from an environment where a language other than English is dominant; and whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny them:

A.3.d.i. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1527 (July 2005), amended LR 33:

§111. Limitations on Public Release of Assessment Data

A. When the total N-count in any reporting category or group on an assessment report is nine or less, do not release the assessment data publicly.

B. When the total N-count in any reporting category or group on an assessment report is ten or greater and all students are reported at one achievement level, do not release the assessment data publicly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Chapter 3. Test Security

§305. Test Security Policy

A. - A.1.b. ...

2. For purposes of this policy, school districts shall include:

a. local education agencies (LEAs) as well as the Recovery School District (RSD);

2.b. - 3.h. ...

i. conduct testing in environments that differ from the usual classroom environment without prior written permission from the LDE, Division of Standards, Assessments, and Accountability;

j. fail to report any testing irregularities to the district test coordinator (a testing irregularity is any incident in test handling or administration that leads to a question regarding the security of the test or the accuracy of the test data), who must report such incidents to the LDE, Division of Standards, Assessments, and Accountability;

k. ...

4. Each school district as described in this policy shall develop and adopt a district test security policy that is in compliance with the state's test security policy. A Statement of Assurance regarding the LEA's test security policy must be submitted annually to the LDE, Division of Standards, Assessments, and Accountability. This statement must include the name of the individual designated by the district superintendent or institution to procure test material. The policy shall provide:

4.a. - 9.b. ...

c. Any discrepancies noted in the security numbers of test booklets, answer documents, and any supplementary secure materials (e.g., writing prompts, science tasks), or the quantity received from contractors must be reported to the LDE, Division of Standards, Assessments, and Accountability, by the designated institutional or school district personnel prior to the administration of the test.

d. In the event that test booklets, answer documents, or supplementary secure materials (e.g., writing prompts, science tasks) are determined to be missing while in the possession of the institution or school district or in the event of any other testing irregularities or breaches of security, the designated institutional or school district personnel must immediately notify by telephone the LDE, Division of Standards, Assessments, and Accountability, and follow the detailed procedures for investigating and reporting specified in this policy.

e. ...

f. Each district superintendent or institution must annually designate one individual in the district or institution as district test coordinator, who is authorized to procure test materials that are utilized in testing programs administered by or through the SBESE of the LDE. The name of the individual designated must be provided in writing to the LDE, Division of Standards, Assessments, and Accountability, and included on the Statement of Assurance.

g. Testing shall be conducted in class-sized groups. Bulletin 741 (913A) states that K-3 classroom enrollment should be no more than 26 students, and in grades 4-12, no more than 33, except in certain activity types of classes in which the teaching approach and the material and equipment are appropriate for large groups. For grades K-8, the maximum class size for Health and Physical Education classes may be no more than 40. Class size for exceptional students is generally smaller Bulletin 741, (915). Permission for testing in environments that differ from the usual classroom environment must be obtained in writing from the LDE, Division of Standards, Assessments, and Accountability, at least 30 days prior to testing. If testing outside the usual classroom environment is approved by the Division of Standards, Assessments, and Accountability, the school district must provide at least one proctor for every 30 students.

9.h. - 13. ...

14. School districts must ensure that individual student test data are protected from unauthorized access and disclosure.

a. The Louisiana Department of Education's LEAPdata Query and LEAPweb Reporting Systems contain students' private information, including state test scores and state identification numbers. The systems are password protected and require a user ID and an assigned password for access. The systems are not for public use, and any student information from the systems must not be disclosed to anyone other than a state, district, or school official as defined by the Family Educational Rights and Privacy Act of 1974 (FERPA). A state, district, or school official is a person employed by the state, district, or school as an administrator, supervisor, district test coordinator, school test coordinator, principal, teacher, or support staff member. This person has a legitimate educational interest if he/she needs to review an education record in order to fulfill his or her professional responsibility. Curiosity does not qualify as a right to know. State, district and school officials who are granted a password to this system must abide by FERPA law. Disclosure of passwords to anyone other than the state, district, or school official(s) is prohibited. Disclosure of a student's data to their parent or guardian must be in accordance with FERPA. For more information on FERPA, see the U.S. Department of Education Web page at <http://www.ed.gov/offices/OM/fpc/ferpa/>.

i. LEAPweb Reporting System. At the school level, only principals (not teachers) and their designated school personnel (test coordinators or those with whom the principal shares his/her PIN) must sign a security agreement and send to the DTC to keep on file at the district for three years.

ii. LEAPdata Query System. All school users (e.g., teachers, counselors, test coordinators) must sign the security agreement and return it to the principal to keep on

file at the school for three years. A new security agreement should be signed by all users each year after the new password letters for schools are automatically generated in August. If a breach in security occurs, principals should immediately contact the DTC or the backup DTC for a replacement password.

iii. Security agreements must also be signed by DTCs for the LEAPweb Reporting and LEAPdata Query Systems and returned to the LDE.

b. Users who have access to these systems and leave their positions at a district or school site must not use or share the password.

15. District test coordinators are responsible for providing training regarding the security and confidentiality of individual student test data (in paper and electronic formats) and of aggregated data of fewer than 10 students.

16. LDE staff will conduct site visits during testing to observe test administration procedures and to ensure that appropriate test security procedures are being followed. Schools with prior violations of test security or other testing irregularities will be identified for visits. Other schools will be randomly selected.

17. Any teachers or other school personnel who breach test security or allow breaches in test security shall be disciplined in accordance with the provisions of R.S. 17:416 et seq., R.S. 17:441 et seq., R.S. 17:81 et seq., policy and regulations adopted by the SBESE, and any and all laws that may be enacted by the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.7 (C) (G).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 32:233 (February 2006), LR 33:

§307. Change of District Test Coordinator Notification

A. If during the academic year the person appointed as district test coordinator changes, the district superintendent must notify the LDE, Division of Standards, Assessments, and Accountability. The notification must be in writing and must be submitted within 15 days of the change in appointment.

1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1530 (July 2005), amended LR 32:234 (February 2006), LR 33:

§309. Erasure Analysis

A. - A.3.b. ...

4. Once districts, schools, and individual students have been identified, the state superintendent of education sends letters to district superintendents stating that students in those districts have been identified as having excessive wrong-to-right erasures. Based on the number of erasures found, scores for students exceeding the four-standard-deviation criterion will be voided. Individual student reports from the testing program will reflect the voided scores. In the aggregation of scores at the school, district, and state levels, each voided score will have the effect of a zero score. Copies of the District/School and Student Erasure Analysis reports are enclosed with the letters. Copies of the correspondence are provided to the deputy superintendent of education, the assistant superintendent of the Office of Student and School Performance, the director of the Division

of Standards, Assessments, and Accountability, and the district test coordinator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1530 (July 2005), amended LR 32:234 (February 2006), LR 33:

§311. Addressing Suspected Violations of Test Security and Troubling Content in Written Responses (Constructed Responses, Short Answers, and Essays)

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

d. The district test coordinator must then fax a completed void form to the LDE, Division of Standards, Assessments, and Accountability, as directed in the *District and School Test Coordinators Manual*. The original Void Verification form, along with a copy of the school test coordinator's request for the void, must also be mailed to the LDE, Division of Standards, Assessments, and Accountability, as directed in the manual.

2. Reported Violations by School Personnel or Other Persons. All suspected instances of cheating should be reported directly to the school's district test coordinator for further investigation, and a report of the incident must be sent to LDE, Division of Standards, Assessments, and Accountability. If it is deemed necessary to void tests, the DTC must fax a completed void form to the LDE, Division of Standards, Assessments, and Accountability. The original Void Verification form along with a written report of the investigation carried out must be mailed the LDE, Division of Standards, Assessments, and Accountability.

3. - 3.a.iii. ...

b. If possible incidents of violations are discovered in the scoring process, the scoring contractor notifies the LDE, Division of Standards, Assessments, and Accountability, of suspect documents with a summary of its findings.

c. Professional assessment and related-content personnel from the Division of Standards, Assessments, and Accountability review the suspect documents and determine whether the evidence supports voiding the responses.

d. If voiding is recommended, LDE mails the district superintendent a letter of what was observed during the scoring process that caused the alert and identifies the particular document that was voided. Copies of the correspondence are provided to the deputy superintendent of education, the assistant superintendent of the Office of Student and School Performance, the director of the Division of Standards, Assessments, and Accountability, and the local district test coordinator.

i. Within 30 calendar days of the receipt of such a letter, the district must investigate the incident and provide a written plan of action to the state superintendent of education. If the district and/or parent/guardian(s) wish to discuss the situation further or to examine the student responses, a meeting may be scheduled at the LDE offices between staff members from the Division of Standards, Assessments, and Accountability, district representatives, and parent/guardian(s).

4. Disturbing Content. If student responses with disturbing content are discovered during the scoring process, the scoring contractor will notify the appropriate staff

member at the LDE, Division of Standards, Assessments, and Accountability.

a. - b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1531 (July 2005), amended LR 33:

§312. Administrative Error

A. Administrative errors by school personnel that results in a question regarding the security of the test or the accuracy of the test data are considered testing irregularities. If it is deemed necessary to void the test, the district test coordinator must fax a completed void form to the LDE, Division of Standards, Assessments, and Accountability, as directed in the District and School Test Coordinators Manual. The original Void Verification form, along with a copy of the account of the incident, must also be mailed to the LDE, Division of Standards, Assessments, and Accountability, as directed in the manual.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 32:390 (March 2006), amended LR 33:

§313. Viewing Answer Documents

A. ...

B. The district test coordinator must send a written request to view the answer document to the LDE, Division of Standards, Assessments, and Accountability. The request must include:

B.1. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1532 (July 2005), amended LR 32:234 (February 2006), LR 33:

§315. Emergencies during Testing

A. - A.6. ...

7. If test security has been compromised, the district test coordinator must notify the LDE, Division of Standards, Assessments, and Accountability, as soon as possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1532 (July 2005), amended LR 32:234 (February 2006), LR 33:

Chapter 5. Test Coordinator Responsibilities

Subchapter A. District Test Coordinator

§501. District Test Coordinator Role

A.1. - A.2.m. ...

n. reporting immediately to the LDE, Division of Standards, Assessments, and Accountability, any missing test booklets or answer documents and returning them to test contractors if they are found;

o. investigating any testing irregularities and reporting them to the LDE, Division of Standards, Assessments, and Accountability;

p. reporting to the LDE, Division of Standards, Assessments, and Accountability, instances of students marking in a wrong section of the answer document;

q. ...

r. returning any secure materials used for test accommodations, such as transparencies or computer disks, to the LDE, Division of Standards, Assessments, and Accountability;

s. maintaining the district password and all school passwords within the district that are used with LEAPweb Reporting System and the LEAPdata Query System;

t. training district and school users within a district to effectively use the systems; ensure they are familiar with the Family Educational Rights and Privacy Act (FERPA) law governing confidentiality of student records, and ensure they have signed a security agreement before receiving a password for access to the LEAPdata Query System;

u. ensuring:

i. that all district/school users maintain the security of and access to all student information obtained via the LEAPweb Reporting and LEAPdata Query systems;

ii. that all school users are aware that student test data shall not be disclosed to anyone other than another school official and only for a legitimate educational purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1533 (July 2005), amended LR 33:

Subchapter B. School Test Coordinator

§511. School Test Coordinator Role

A. - A.7. ...

8. noting any discrepancies in the count or numbering of test booklets or answer documents from that recorded on the security check off lists from the testing contractor.

9. - 20. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1533 (July 2005), amended LR 33:

Chapter 18. End-of-Course Tests

§1801. Description

A. The EOCT tests, which are criterion-referenced and standards-based, will be available online to high school students beginning in fall 2007. The tests will be phased in over a period of six years, beginning with Algebra I. In the first years of administration, district participation will be voluntary. Policies regarding the use of EOCT results shall be determined by the district's local pupil progression plan. The tests measure the knowledge and skills a student should have mastered by the end of the course. The results of the EOCT will help ensure that all Louisiana students have access to a rigorous curriculum that meets high academic standards. The tests will assess student learning in eight high school courses:

1. Algebra I;
2. Geometry;
3. English I;
4. English II;
5. Biology;
6. American History;
7. Civics; and
8. Free Enterprise.

B. For those districts opting to participate in EOCT assessment, any student enrolled in and/or receiving credit for an EOCT course, regardless of grade and inclusive of middle school students taking high school courses for high school credit, is required to take the EOCT upon completion of that course.

C. EOCT will be offered at the end of the fall and spring semesters.

1. Students completing the course at the end of the fall semester participate in the fall test.

2. Students completing the course at the end of the spring semester participate in the spring test.

D. Retests will not be offered for EOCT.

E. Since these tests are being developed for use in Louisiana schools, any school selected for field tests shall participate in the field tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Chapter 23. English Language Development Assessment (ELDA)

Subchapter A. Background

§2301. Overview

A. The NCLB of 2002 Title III (20 USCS §6301 et seq.) requires standards-based assessment of the progress of all LEP students enrolled in grades kindergarten through 12 in attaining English proficiency, including a student's level of comprehension, speaking, listening, reading, and writing skills in English. ELDA grade cluster 3-12 was field-tested in spring 2004 and implemented during spring 2005. Grade cluster K-2 was field tested in spring 2005. Full implementation of ELDA in kindergarten through 12 occurred in spring 2006.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1557 (July 2005), amended LR 33:

Subchapter B. General Provisions

§2303. Introduction

A. ELDA is composed of tests in four grade clusters (Kindergarten-2, 3-5, 6-8, 9-12) in the four language domains (reading, writing, listening, and speaking). It assesses both the academic and school/social environment language of students. ELDA is vertically linked across grade clusters and has five levels of proficiency descriptors ranging from level 1, which has a realistic definition of English proficiency for beginners, to level 5, which has a rigorous definition of full English proficiency.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Subchapter C. ELDA Test Design

§2305. Format

A. ELDA test design consists of:

1. Inventory. Observation in grade levels K-2;
2. Multiple choice items (MC). Grade levels 3-12;
3. Short Constructed Responses (SCR). Grade levels 3-12;

4. Extended Constructed Responses (ECR). Grade levels 3-12.

| | Listening | Speaking | Reading | Writing |
|------|--------------------------------|--------------------------------|--------------------------------|---------------------------------------|
| K | Inventory with specified tasks | Inventory with specified tasks | Inventory with specified tasks | Inventory with performance activities |
| 1-2 | Inventory with specified tasks | Inventory with specified tasks | Inventory with specified tasks | Inventory with performance activities |
| 3-5 | 50 MC | 16 SCR | 50 MC | 3 SCR 1 ECR 15 MC |
| 6-8 | 50 MC | 16 SCR | 50 MC | 3 SCR 1 ECR 15 MC |
| 9-12 | 50 MC | 16 SCR | 50 Multiple Choice | 4 SCR 1 ECR 15 MC |

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Subchapter D. Target Population

§2307. Participation Criteria

A. Limited English Proficient students. A student who is aged 3 through 21; who is enrolled in an English-speaking elementary school or secondary school for less than a year; who was not born in the United States or whose native language is a language other than English; who is a Native American or Alaska Native or a native resident of the outlying areas and comes from an environment where a language other than English has had significant impact on his level of English language proficiency; or who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny them:

1. the ability to meet the state's proficient level of achievement on state assessments;
2. the ability to successfully achieve in classrooms where the language of instruction is English; or
3. the opportunity to participate fully in society.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Subchapter E. Proficiency Levels and Proficiency Standards

§2309. Proficiency Levels

A.1. The English Language Development Standards (ELDS) levels are:

- a. Level 1, Beginning Proficiency;
 - b. Level 2, Lower Intermediate Proficiency;
 - c. Level 3, Upper Intermediate Proficiency;
 - d. Level 4, Advanced Proficiency; and
 - e. Level 5, Full English Proficiency.
2. The name of the proficiency levels align with ELDS. The definition of each level is also consistent with the definitions of ELDS.

B. Proficiency Level Definitions

1. Listening Proficiency Levels

Level I, Beginning Proficiency—a student at this level is beginning to understand short utterances.

Level II, Lower Intermediate Proficiency—a student at this level understands simple statements, directions, and questions.

Level III, Upper Intermediate Proficiency—a student at this level understands standard speech delivered in most settings.

Level IV, Advanced Proficiency—a student at this level can identify main ideas and relevant details of discussions or presentations on a wide range of topics.

Level V, Full English Proficiency—a student at this level can understand and identify main idea(s) and relevant details of extended discussions or presentations on a wide range of familiar and unfamiliar topics.

2. Speaking Proficiency Levels

Level I, Beginning Proficiency—a student at this level is beginning to use gestures and simple words to communicate.

Level II, Lower Intermediate Proficiency—a student at this level can use appropriate strategies to initiate and respond to simple conversation.

Level III, Upper Intermediate Proficiency—a student at this level can communicate orally with some hesitation.

Level IV, Advanced Proficiency—a student at this level can actively engage in most communicative situations familiar and unfamiliar.

Level V, Full English Proficiency—a student at this level is fluent and accurate in language production.

3. Reading Proficiency Levels

Level I, Beginning Proficiency—a student at this level is beginning to understand simple printed material.

Level II, Lower Intermediate Proficiency—a student at this level can understand the general message of basic reading passages.

Level III, Upper Intermediate Proficiency—a student at this level can understand descriptive materials within familiar contexts and some complex narratives.

Level IV, Advanced Proficiency—a student at this level can understand the context of most text in the academic areas with support.

Level V, Full English Proficiency—a student at this level can use reading strategies the same as their native English-speaking peers to derive meaning from a wide range of both social and academic texts.

4. Writing Proficiency Levels

Level I, Beginning Proficiency—a student at this level is beginning to develop communicative writing skills.

Level II, Lower Intermediate Proficiency—a student at this level can compose short informative passages on very familiar topics.

Level III, Upper Intermediate Proficiency—a student at this level can write simple texts and short reports.

Level IV, Advanced Proficiency—a student at this level can write multi-paragraph essays, journal entries, personal/business letters, and creative texts in an organized fashion with some errors.

Level V, Full English Proficiency—a student at this level can write fluently using language structures, technical vocabulary, and appropriate writing conventions with some circumlocutions (wordy or indirect language).

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2311. Proficiency Standards

A. Proficiency standards for ELDA listening, speaking, reading, and writing tests are finalized in scaled-score form. The scaled-score ranges vary per grade cluster.

1. ELDA Proficiency Level Raw-Score Ranges

| Domain | Proficiency Level 1 | Proficiency Level 2 | Proficiency Level 3 | Proficiency Level 4 | Proficiency Level 5 |
|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Kindergarten | | | | | |
| Listening | 0–3 | 4–8 | 9–15 | 16–18 | 19–21 |
| Speaking | 0–5 | 6–11 | 12–17 | 18–21 | 22–24 |
| Reading | 0–7 | 8–19 | 20–35 | 36–39 | 40–42 |
| Writing | 0–6 | 7–15 | 16–20 | 21–25 | 26–27 |

| Domain | Proficiency Level 1 | Proficiency Level 2 | Proficiency Level 3 | Proficiency Level 4 | Proficiency Level 5 |
|----------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Grade Cluster 1 - 2 | | | | | |
| Listening | 0–5 | 6–10 | 11–15 | 16–18 | 19–21 |
| Speaking | 0–7 | 8–12 | 13–17 | 18–21 | 22–24 |
| Reading | 0–9 | 10–21 | 22–30 | 31–38 | 39–42 |
| Writing | 0–7 | 8–16 | 17–20 | 21–24 | 25–27 |

2. ELDA Proficiency Level Scaled-Score Ranges

| Domain | Proficiency Level 1 | Proficiency Level 2 | Proficiency Level 3 | Proficiency Level 4 | Proficiency Level 5 |
|----------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Grade Cluster 3 - 5 | | | | | |
| Listening | 100–449 | 450–543 | 547–644 | 645–724 | 725–930 |
| Speaking | 117–449 | 450–546 | 547–667 | 668–808 | 809–937 |
| Reading | 100–449 | 450–579 | 580–647 | 648–769 | 770–931 |
| Writing | 127–449 | 450–576 | 577–668 | 669–932 | 934–950 |

| Domain | Proficiency Level 1 | Proficiency Level 2 | Proficiency Level 3 | Proficiency Level 4 | Proficiency Level 5 |
|----------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Grade Cluster 6 - 8 | | | | | |
| Listening | 115–553 | 554–625 | 626–717 | 718–805 | 806–941 |
| Speaking | 133–457 | 458–610 | 611–718 | 719–824 | 825–936 |
| Reading | 103–459 | 460–611 | 612–690 | 691–828 | 829–940 |
| Writing | 149–552 | 553–652 | 653–721 | 722–896 | 897–928 |

| Domain | Proficiency Level 1 | Proficiency Level 2 | Proficiency Level 3 | Proficiency Level 4 | Proficiency Level 5 |
|-----------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Grade Cluster 9 - 12 | | | | | |
| Listening | 118–555 | 556–631 | 632–728 | 729–849 | 850–950 |
| Speaking | 192–569 | 570–649 | 650–764 | 765–849 | 850–950 |
| Reading | 122–544 | 545–629 | 630–717 | 718–849 | 850–933 |
| Writing | 122–508 | 509–630 | 631–718 | 719–849 | 850–932 |

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Subchapter F. ELDA Proficiency Level Descriptors

§2313. Introduction

A. Proficiency level descriptors for ELDA assessments were developed by English Language Learners (ELL) teachers from across the Limited English Proficient State Collaborative on Assessment and Student Standards (LEP SCASS) states. The descriptors define what a student should know and be able to do at each proficiency level for each domain assessed at a given grade level.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2315. Proficiency Level Descriptors

A. Listening Proficiency Level Descriptors

| Listening | |
|------------------|---|
| 5 | Students at this stage can understand a wide range of both social and academic texts available to native English speakers. |
| 4 | Students at this stage can understand the content of most texts of interest to them and, with support, most academic content areas. |

| Listening | |
|-----------|---|
| 3 | Students at this stage can understand short conversations on topics in everyday situations, with peers, and selected adults, either in face-to-face situations or on the telephone. |
| 2 | Students at this stage can understand simple statements, directions, and questions. Frequently request repetition and/or circumlocutions (wordy or indirect language). |
| 1 | Students at this stage have problems understanding even short utterances. May occasionally understand isolated words, such as cognates, borrowed words, or high-frequency social conventions. |

B. Speaking Proficiency Level Descriptors

| Speaking | |
|----------|--|
| 5 | Students at this stage can engage in most social communication situations with confidence and mastery of complex language structures. Communication in academic areas is characterized by fluent and accurate language production with some circumlocution regarding technical vocabulary. |
| 4 | Students at this stage can handle most communicative situations with confidence but may need help with any difficulty that may arise in language production, especially in academic areas. |
| 3 | Students at this stage can initiate and sustain a conversation in face-to-face situations or on the telephone, with fluent speakers, often with hesitation and circumlocution regarding low-frequency vocabulary. |
| 2 | Students at this stage can use appropriate strategies to initiate and respond to simple statements and engage in simple face-to-face conversations with more fluent speakers of the same age group. |
| 1 | Students at this stage have no functional communicative speaking skills. May communicate with high-frequency learned words or phrases. |

C. Reading Proficiency Level Descriptors

| Reading | |
|---------|--|
| 5 | Students at this stage can understand a wide range of both social and academic texts available to native English speakers. |
| 4 | Students at this stage can understand the content of most texts of interest to them and, with support, most academic content areas. |
| 3 | Students at this stage can understand more complex narrative and descriptive materials within a familiar context. |
| 2 | Students at this stage can understand simple material for informative or social purposes. |
| 1 | Students at this stage have problems understanding even the simplest of material. May occasionally be able to identify isolated words and/or phrases when strongly supported by context. |

D. Writing Proficiency Level Descriptors

| Writing | |
|---------|---|
| 5 | Students at this stage are mostly able to produce fluent academic writing using language structures, technical vocabulary, and appropriate writing conventions with some circumlocutions. |
| 4 | Students at this stage can write multi-paragraph essays, journal entries, personal and business letters, and creative texts in an organized fashion but with some errors. |
| 3 | Students at this stage can write simple texts, personal and business letters, and short reports using high-frequency language. |
| 2 | Students at this stage can describe basic personal needs and compose short information passages and texts on very familiar topics. |
| 1 | Students at this stage have no practical communicative writing skills. May be able to form some individual letters or transcribe familiar words or phrases. |

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Subchapter G. ELDA Assessment Structure

§2317. Listening Domain Structure

A. Kindergarten–Grade 2

1. Inventory with specified tasks to be performed by the student.

B. Grades 3-12

1. The listening assessment has several steps:

a. Scripted Administration Directions. Students will be read a scripted set of directions by the test administrator.

b. Recorded Prompting. Students will complete the test using a prerecorded audiocassette or CD.

i. A narrator reads stimulus materials, questions, and possible responses to the student.

ii. Stimulus material is read two times during the narration.

iii. Questions are read one time only.

iv. Students have 10 seconds to respond, in their answer document, to each question after the narrator has read the last option.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2319. Speaking Domain Structure

A. Kindergarten-2

1. Inventory with activities to be completed by the student.

B. Grades 3-12

1. The speaking assessment has seven sections that require a student to exhibit comprehension skills responding to prerecorded prompts.

a. Practice Task 1

b. Practice Task 2

c. School—Social Interaction Tasks

d. English—Language Arts Task

e. Mathematics, Science, and Technology Tasks

f. Social Studies Tasks

g. Closing

2. The teacher scores individual student's responses to each prompt using the scoring rubrics.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2321. Reading Domain Structure

A. Kindergarten-2

1. Inventory with specified tasks to be performed by each student.

B. Grades 3-12

1. The reading tests are divided into three parts.

a. Short Passages. This section tests the student's ability to understand information in short reading passages. One or more multiple-choice questions are asked about each passage.

b. Instructions. This section tests the student's ability to understand directions. There is a different set of instructions for each question. The student will need to identify which person followed the directions correctly.

c. Longer Passages. This section tests the student's ability to understand information in longer reading passages. The student will answer several questions about each passage.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2323. Writing Domain Structure

A. Kindergarten-2

1. Inventory with specified tasks to be performed by the student.

B. Grades 3-12

1. The writing assessment is divided into three parts.

a. Open Ended. Students will write responses to prompts.

b. Revise and Edit. Students will choose the best answer to multiple choice questions, correct grammar and usage errors in passages.

c. Graphic Organizers. Students will answer multiple-choice questions about graphic organizers.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Chapter 27. Placement Tests

§2701. Administration and Scoring

A. - C. ...

D. District test coordinators score the placement tests for students taking the tests in the public school districts. The LDE, Division of Standards, Assessments, and Accountability, scores all placement tests administered by charter schools and laboratory schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1558 (July 2005), amended LR 32:239 (February 2006), LR 33:

Chapter 33. Assessment of Special Populations

§3305. Students with One or More Disabilities

According to Section 504

A. - B.1....

2. The student must undergo an annual review by the Section 504 Committee and an Individual Accommodation Plan (IAP) must be completed for each newly identified student or for each student whose accommodations have changed since his or her last test administration.

a. The IAP identifies students with disabilities as defined by the Rehabilitation Act of 1973 and the ADA. The form also must be used to document accommodations for qualified Section 504 students. School districts are responsible for completing the form once a student's eligibility has been determined.

b. Signatures. Duplicate signatures are not acceptable on the IAP. Signature lines with an asterisk must be original signatures. The parent and student signatures are optional, but it is considered best practice to obtain these. The district Section 504 coordinator's signature is required only if the student will require accommodations on statewide assessment.

B.2.c. - C.4.l. ...

D. Individualized Healthcare Plans. If a Section 504 student requires medical procedures that will prevent him or her from participating in a statewide assessment, individualized healthcare plans must be attached to the IAP.

E. Forms Management

1. Submission. A LEAP Data Validation form must be completed and submitted, along with a copy of the student's IAP, to the district Section 504 coordinator by the district-designated date. The district Section 504 coordinator should establish the deadline for collection of the forms early enough to ensure time for review before submitting them to the LDE. School districts should contact the district Section 504 coordinator regarding the deadline. The LEAP Data Validation forms should be submitted to the LDE annually.

2. Review. The IAPs will be reviewed by a committee of LDE employees and Section 504 Statewide Task Force members for any possible testing irregularities, including potential violations of test security; appropriateness; and required information that substantiates the accommodations provided during assessment. Reviews will be scheduled throughout the month of January, to be completed by January 30. District Section 504 coordinators will be notified concerning the place and time of review for their districts.

3. Extenuating Circumstances. The extenuating circumstances that will be considered for reviewing an IAP submitted after the deadline and/or after the established review period are:

a. - b. ...

F. Gifted or Talented Students with a Qualified Disability. For students who are classified as gifted or talented students and who have a qualified disability under Section 504, a Section 504 IAP must be attached to the student's IEP.

G. LEAP Summer Retest and GEE Summer, Fall, and February Seniors Only Retest. Students who were identified as Section 504 or who had accommodations added to their Section 504 IAP after the spring assessment must have a LEAP Data Validation form completed and submitted to LDE 30 days before the summer or fall retest. A copy of the IAP must be forwarded to the student's summer remediation and summer or fall testing site to ensure the student receives the appropriate accommodations for instruction and assessment.

H. GEE and "Old" GEE. Students who have completed their Carnegie units but are no longer enrolled in school should receive the accommodations documented on their last IAP.

I. Test Accommodations for both Section 504 and Special Education

1. - 3.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24 et seq., R.S. 17:391-400, R.S. 17:1941 et seq., R.S. 17:397, R.S. 17:1946, and R.S. 17:1947.1.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1560 (July 2005), amended LR 32:239 (February 2006), LR 33:

§3306. Approved Accommodations for Special Education and Section 504 Students

A. The following accommodations, if used in classroom instruction and assessment and specified on a student's IEP or IAP may be used for testing.

1. Braille

a. Braille editions of the test are provided for students who are proficient in this mode of access to written

material. The regular print edition may be modified in braille. Supplementary test administration instructions and manipulatives are provided as needed. All responses must be transferred to the scorable answer document.

2. Large Print

a. Large-print editions may be used by students who use large print as an accommodation in classroom instruction and assessment. Large-print editions contain all test items that are in the regular edition. Essentially the large-print edition is an enlarged version of the regular-print edition, though the layout may vary slightly so as not to make the document more difficult for a student to use. All responses must be transferred to the scorable answer document.

3. Answers Recorded

a. If a student is unable due to his/her disability to write, provisions the test administrator must record the student's answers on the scorable answer document. Scribes and others supporting a student's test taking must be neutral in responding to the student during test administration. Assistance in test administration must not give away the answers. The student's responses must accurately represent the student's own choices. If a scribe is used for a writing topic, the scribe must write exactly what the student dictates without punctuation or capitalization. The student then must edit what the scribe wrote and provide punctuation and capitalization or any other changes.

4. Assistive Technology

a. Assistive technology can include, but is not limited to a:

- i. computer;
- ii. tape recorder;
- iii. calculator;
- iv. abacus;
- v. grip for a pencil;
- vi. visual magnification device;
- vii. communication device;
- viii. mask or marker to maintain place;
- ix. speech synthesizer; and
- x. electronic reader.

5. Extended Time/Adjusted Time.

a. Every student must be given extended or sufficient time to respond to every test item. Time may be adjusted for certain students, such as those who have short attention spans or who may be unable to concentrate for long periods of time on a given task. The test administration time may have to be altered considerably to allow for intermittent short breaks during the testing period, or it may be determined appropriate to administer the test in a number of short sessions. Testing may also be stopped and continued at a later time if a student's behavior interferes with testing. The elapsed time must be documented and the test administrator must closely monitor that test security is maintained. The time of day the test is administered may also be adjusted to a time more beneficial to the student. All sessions, however, must be completed within the specified test administration dates, including makeup sessions.

6. Communication Assistance

a. A test administrator who is fluent in the cuing or signing modality routinely used by a student should be available to repeat or clarify directions and sign portions of

the test if warranted by the student's reading level as documented on the IEP or IAP.

b. No passages, questions, or distractors (multiple choices) of any English language arts test that measures reading comprehension may be signed or cued. Such tests include the Reading and Responding session of LEAP, GEE, and LAA 2, Reading and Language Session of iLEAP, Reading Comprehension of the ITBS and the "old" GEE, Reading session of ELDA, and any others developed to measure this skill. Directions only to these sessions may be signed or cued. When signing or cueing, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

7. Transferred Answers

a. Student responses that are recorded in any format other than on the standard answer document must be transferred by the test administrator precisely as instructed in the appropriate test manual. Such formats include braille, large print, oral responses, typewritten responses, computer responses, and any other responses recorded with the assistance of mechanical or technological devices. Student responses not transferred will not be scored. If both a student's and a test administrator's handwriting appear on an answer document, only the student's writing will be scored.

8. Individual/Small Group Administration

a. Tests may be administered to a small group (maximum, eight students) or to an individual requiring more attention than can be provided in a larger classroom. If other selected accommodations affect the standard administration of the test (e.g., extended time on a timed test, tests read aloud), individual or small group administration must be used.

9. Tests Read Aloud

a. Students may be allowed to have portions of the tests read to them, with the exception of portions designed to measure reading comprehension, which are clearly designated in the *Test Administration Manuals*. No passages, questions, or distractors (multiple choices) of any English language arts assessment that measures reading comprehension may be read aloud. Such assessments include the Reading and Responding session of LEAP, GEE, and LAA 2, Reading and Language session of iLEAP, Reading Comprehension in the ITBS and the "old" GEE, the Reading session of ELDA, and any others developed to measure this skill. Directions only to these assessments may be read aloud. When reading aloud, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide cues that convey answers.

10. Other

a. Any necessary accommodations may be used, but they must be decided by the IEP team or Section 504 committee and listed on the student's IEP or IAP. The accommodation must not invalidate the meaning of the test score or the purpose of the test. Examples of other accommodations include highlighting the task or verbs in the directions on the test or assisting the student in tracking the test items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24 et seq., R.S. 17:391-400, R.S. 17:1941 et seq., R.S. 17:397, R.S. 17:1946, and R.S. 17:1947.1.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§3307. Limited English Proficient Students

A. - B.6.c. ...

C. Approved Accommodations for LEP Students

1. The following accommodations are to be provided for LEP students participating in the LEAP, GEE, *i*LEAP, and LAA 2 assessments.

a. Extended Time/Adjusted Time. Every student must be given extended or sufficient time to respond to every test item. Time may be adjusted for certain students, such as those who have short attention spans or those who may be unable to concentrate for long periods of time on a given task. The test administration time may have to be altered considerably to allow for intermittent short breaks during the testing period, or it may be determined appropriate to administer the test in a number of short sessions. Testing may also be stopped and continued at a later time if a student's behavior interferes with testing. The elapsed time must be documented and the test administrator must closely monitor that test security is maintained. All sessions, however, must be completed within the specified test administration dates, including makeup sessions.

b. Individual/Small Group Administration. Tests may be administered to a small group (maximum, eight students) or to an individual requiring more attention than can be provided in a larger classroom. If other selected accommodations affect the standard administration of the test (e.g., extended time on a timed test, tests read aloud), individual or small group administration must be used.

c. Provision of English/Native Language Word-to-Word Dictionary (No Definitions). LEP students may use either a standard or an electronic English/native language word-to-word dictionary, without definitions, on all sessions of the test. On the written composition sessions of the tests, all LEP students may use an English/native language word-to-word dictionary with definitions; this is not an accommodation.

d. Tests Read Aloud. Students may be allowed to have portions of the tests read to them, with the exception of portions designed to measure reading comprehension, which are clearly designated in the *Test Administration Manuals*. No passages, questions, or distractors (multiple choices) of any English language arts assessment that measures reading comprehension may be read aloud. Such assessments include the Reading and Responding session of LEAP, GEE and LAA 2, Reading and Language session of *i*LEAP, Reading Comprehension in the ITBS and the "old" GEE, the Reading session of ELDA, and any others developed to measure this skill. Directions only to these assessments may be read aloud. When reading aloud, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide cues that convey answers.

e. Test Administered by ESL Teacher or by Individual Providing Language Services. Familiarity with the speech patterns of the ESL teacher or individual providing language services may assist the student in understanding the test directions or the portions read aloud if the student receives the accommodation Tests Read Aloud.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq. and R.S. 17:24.4 (F)(3).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1562 (July 2005), amended LR 32:240 (February 2006), LR 33:

Chapter 35. Assessment of Students in Special Circumstances

§3501. Approved Home Study Program Students

A. - F. ...

G. A fee of up to \$35, which covers actual costs of administering, scoring, and reporting the results of statewide assessments, may be charged. For students testing to enter the public school system, this fee shall be refunded upon the student's enrollment in the public school system the semester immediately following testing. The DTC shall return test results to parents when results are returned to the public schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1-17.236.2, R.S. 17:6 (A) (10) (11) (15), R.S. 17:10, R.S. 17:22 (6), R.S. 17:391.1-17: 391.10, R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1563 (July 2005), amended LR 32:240 (February 2006), LR 33:

§3509. Expelled Students

A. If a student is expelled from school and is not enrolled in any type of alternative program or receiving any services from the school district, the parent/legal guardian may make a timely request that the student be tested and the school district shall make arrangements to test the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151.3 and R.S. 17:24.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., December 9, 2006, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

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

**RULE TITLE: Bulletin 118—Statewide Assessment
Standards and Practices**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rule consolidates into *Bulletin 118* the State Board of Elementary and Secondary Education (SBESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration. The proposed rule change will have no implementation cost to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections at the state or local governmental levels.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There should be no effect on costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There should be no impact on competition and employment.

Beth Scioneaux
Deputy Superintendent
0610#032

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices—*Integrated* LEAP and LEAP Alternate Assessment, Level 2 (LAC 28: CXI. Chapter 17 and 20)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 118—Statewide Assessment Standards and Practices*. Bulletin 118 contains the State Board of Elementary and Secondary Education (SBESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration. The revisions will provide information regarding:

- Addition of new language in Chapter 17 regarding statewide assessments.
- Chapter 17, *Integrated* Louisiana Educational Assessment Program (iLEAP), has been updated to provide educators with finalized information about this new statewide assessment. *Bulletin 118* provides details about test design, test format, achievement levels, achievement level descriptors, performance standards, and content standards.
- Addition of new language in Chapter 20 regarding statewide assessments.

- Chapter 20, Louisiana Alternate Assessment, Level 2 (LAA 2), has been updated to provide educators with finalized information about this new statewide assessment. *Bulletin 118* provide details about test design, test format, achievement levels, achievement level descriptors, performance standards, and content standards.

The document will consolidate statewide test information and provide easy access to that information.

Title 28

EDUCATION

**Part CXI. Bulletin 118—Statewide Assessment
Standards and Practices**

Chapter 17. *Integrated* LEAP

Subchapter A. General Provisions

§1701. Introduction

A. The NCLB Act requires the development of grade-level expectations (GLEs) or grade-level content standards at grades 3 through 8 for reading and mathematics. Louisiana has supplemented its existing content standards with grade-level expectations. To create a comprehensive system, Louisiana has developed GLEs in four content areas: English language arts, mathematics, science, and social studies, for grade levels prekindergarten through 12. NCLB further requires standards-based tests (or augmented norm-referenced tests) that measure the content standards. LEAP (grades 4 and 8) and GEE (grades 10 and 11) measure the content standards, and these tests will continue. To measure the standards and GLEs at grades 3, 5, 6, 7, and 9, however, the *Integrated* LEAP (iLEAP) tests were used, beginning in spring 2006. The iLEAP tests replaced The Iowa Tests, which were used to evaluate student performance in grades 3, 5, 6, 7, and 9 from spring 1998 to spring 2005. In accordance with NCLB timelines, the iLEAP tests were implemented spring 2006. Beginning in 2007–2008, NCLB also requires tests in science: once in grades 3 through 5, once in grades 6 through 9, and once in grades 10 through 12. The term *integrated* refers to the integration of standards-based tests (CRTs) and norm-referenced tests (NRTs) into one program.

1. Tests and Grade Levels for iLEAP

| Grade | English Language Arts (ELA) | Math | Science | Social Studies |
|-------|-----------------------------|---------------|--------------|----------------|
| 3 | Augmented NRT | Augmented NRT | CRT | CRT |
| 5 | Augmented NRT | Augmented NRT | CRT | CRT |
| 6 | Augmented NRT | Augmented NRT | CRT | CRT |
| 7 | Augmented NRT | Augmented NRT | CRT | CRT |
| 9 | Augmented NRT | Augmented NRT | Not Assessed | Not Assessed |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1556 (July 2005), amended LR 32:238 (February 2006), LR 33:

Subchapter B. iLEAP Test Design

§1703. Format

A. All iLEAP tests are aligned to the GLEs, and student performance on the content standards is the primary reporting scheme. The iLEAP replaces the current NRTs with a survey battery (short form) of the ITBS in English language arts and mathematics at grades 3, 5, 6, and 7. At grade 9, the NRT component of iLEAP includes the core battery of the ITED, with the exception of Math Computation. The NRT is augmented with a CRT component that measures state standards not measured on the ITBS and the ITED. Most of the items on the NRT form for a given grade align with the GLEs for that grade. The iLEAP also includes Science and Social Studies tests at

grades 3, 5, 6, and 7. The iLEAP Science and Social Studies tests are entirely criterion-referenced, aligned with state content standards and GLEs. The LDE elected to use CRTs for science and social studies to have the best measure of what students are learning in classrooms in these content areas.

B. Overall Design of iLEAP

1. The NRT components for the Math and English Language Arts tests shall be administered as timed assessments using national standardized procedures. The CRT components for all four content areas are untimed; however, suggested times are provided. The abbreviations MC and CR in the chart refer to the types of items on the iLEAP; i.e., multiple-choice and constructed-response items.

| | English Language Arts | Math | Science | Social Studies |
|---------------------------------------|--|---|--|--|
| Grades Assessed | 3, 5, 6, 7, 9 | 3, 5, 6, 7, 9 | 3, 5, 6, 7 | 3, 5, 6, 7 |
| Test Components and Item Types | <p>NRT: Survey Battery (MC) grades 3, 5, 6, 7 Core Battery (MC) grade 9</p> <p>CRT: Using Information Resources (MC) Writing Prompt (CR)</p> | <p>NRT: Survey Battery (MC) grades 3, 5, 6, 7 Core Battery (MC) grade 9</p> <p>CRT: (MC and CR)</p> | CRT: MC | CRT: MC |
| Number of Items | <p>NRT: varies by grade from approx. 70 to 140</p> <p>CRT: 8 MC and 1 CR</p> | <p>NRT: varies by grade from approx. 25 to 40</p> <p>CRT: varies by grade from approx. 20 to 30 MC and 2 CR</p> | Varies by grade from approx. 40 to 48 MC | Varies by grade from approx. 30 to 40 MC |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Subchapter C. Achievement Levels and Performance Standards

§1705. Introduction

A.1. Student performance on the CRT components of the iLEAP is reported in terms of achievement level: *Advanced*, *Mastery*, *Basic*, *Approaching Basic*, or *Unsatisfactory*. In addition, norm-referenced scores are reported for Math and English Language Arts. Grade-level committees of educators, mostly teachers, convened to review draft Achievement Level Descriptors (ALDs) that were developed for iLEAP. They used a group-consensus procedure to review the draft descriptors and GLEs to make recommendations for wording that would most appropriately describe expectations for each achievement level and grade.

B. On each test—English Language Arts, Math, Science, and Social Studies—student performance will be reported in terms of achievement level. The Louisiana achievement levels are:

1. Advanced;
 2. Mastery (Exceeding the Standard);
 3. Basic (Meeting the Standard);
 4. Approaching Basic (Approaching the Standard);
- and
5. Unsatisfactory.

C. Achievement Levels Definitions

Advanced—a student at this level has demonstrated superior performance beyond the mastery level.

Mastery (formerly Proficient)—a student at this level has demonstrated competency over challenging subject matter and is well prepared for the next level of schooling.

Basic—a student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Approaching Basic—a student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Unsatisfactory—a student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§1707. Performance Standards

A. Reporting of Scores

1. NRT score:
 - a. percentile rank;
 - b. national curve equivalent (nce);
 - c. standard score;
 - d. stanine;
 - e. includes all items on the NRT form.

2. CRT score:
 - a. achievement level;
 - b. includes CRT items and only those items on the NRT survey battery or on the NRT core battery that align with GLEs at or below the grade level assessed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

iLEAP Achievement Levels and Scaled Score Ranges

| Achievement Level | English Language Arts Scaled Score Ranges | | | | |
|-------------------|---|---------|---------|---------|---------|
| | Grade 3 | Grade 5 | Grade 6 | Grade 7 | Grade 9 |
| Advanced | 383–500 | 386–500 | 387–500 | 383–500 | 436–500 |
| Mastery | 338–382 | 341–385 | 341–386 | 344–382 | 374–435 |
| Basic | 282–337 | 286–340 | 280–340 | 286–343 | 291–373 |
| Approaching Basic | 239–281 | 247–285 | 239–279 | 236–285 | 219–290 |
| Unsatisfactory | 100–238 | 100–246 | 100–238 | 100–235 | 100–218 |

| Achievement Level | Mathematics Scaled Score Ranges | | | | |
|-------------------|---------------------------------|---------|---------|---------|---------|
| | Grade 3 | Grade 5 | Grade 6 | Grade 7 | Grade 9 |
| Advanced | 386–500 | 405–500 | 394–500 | 421–500 | 393–500 |
| Mastery | 343–385 | 355–404 | 358–393 | 376–420 | 360–392 |
| Basic | 283–342 | 282–354 | 281–357 | 292–375 | 293–359 |
| Approaching Basic | 245–282 | 250–281 | 248–280 | 255–291 | 263–292 |
| Unsatisfactory | 100–244 | 100–249 | 100–247 | 100–254 | 100–262 |

| Achievement Level | Science Scaled Score Ranges | | | | |
|-------------------|-----------------------------|---------|---------|---------|--------------|
| | Grade 3 | Grade 5 | Grade 6 | Grade 7 | Grade 9 |
| Advanced | 382–500 | 378–500 | 380–500 | 388–500 | Not Assessed |
| Mastery | 342–381 | 341–377 | 343–379 | 348–387 | |
| Basic | 292–341 | 292–340 | 295–342 | 302–347 | |
| Approaching Basic | 249–291 | 248–291 | 251–294 | 259–301 | |
| Unsatisfactory | 100–248 | 100–247 | 100–250 | 100–258 | |

| Achievement Level | Social Studies Scaled Score Ranges | | | | |
|-------------------|------------------------------------|---------|---------|---------|--------------|
| | Grade 3 | Grade 5 | Grade 6 | Grade 7 | Grade 9 |
| Advanced | 396–500 | 365–500 | 364–500 | 372–500 | Not Assessed |
| Mastery | 341–395 | 339–364 | 338–363 | 339–371 | |
| Basic | 287–340 | 289–338 | 292–337 | 293–338 | |
| Approaching Basic | 255–286 | 257–288 | 261–291 | 262–292 | |
| Unsatisfactory | 100–254 | 100–256 | 100–260 | 100–261 | |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Subchapter D. iLEAP Assessment Structure

§1709. Content Standards

A. The iLEAP tests are aligned to Louisiana content standards, benchmarks, and GLEs. They measure student's knowledge of standards by grade spans through norm-referenced tests (NRTs) and criterion-referenced tests (CRTs). The test's format consists of:

1. Survey/Core Battery:
 - a. obtains information that can support instructional decisions made by teachers in the classroom;
 - b. provides information to students and their parents for monitoring student growth from grade to grade;
 - c. examines the yearly progress of grade groups as they pass through the school's curriculum;
2. GLEs/Benchmarks:
 - a. define the knowledge and skills students are expected to master by the end of each grade or high school course;
3. Standards:
 - a. broad goals for what all students in Louisiana should know and be able to do at any grade level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§1711. English Language Arts Tests Structure

A. The English Language Arts test includes NRT items from the Survey Battery of the ITBS for grades 3, 5, 6, and 7 and a CRT component. The tests are administered over two days.

1. The (NRT) ITBS Survey Battery component and standards measured at grades 3, 5, 6, and 7 include the following.
 - a. Reading:
 - i. vocabulary; and
 - ii. reading comprehension.
 - b. Language:
 - i. spelling;
 - ii. capitalization;
 - iii. punctuation; and
 - iv. usage and expression.
 - c. Louisiana English language arts standards measured by the NRT components include the following.
 - i. Standard 1. Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes.

ii. Standard 6. Students read, analyze, and respond to literature as a record of life experiences. This standard is not tested at grade 3.

iii. Standard 7. Students apply reasoning and problem-solving skills to their reading, writing, speaking, listening, viewing, and visually representing.

iv. Standard 2. Students write competently for a variety of purposes and audiences.

v. Standard 3. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting.

2. The (CRT) Components and standards measured at grades 3, 5, 6, and 7 include the following:

a. writing; and

b. using information resources;

c. Louisiana English language arts standards measured by the CRT components include the following:

i. Standard 2. Students write competently for a variety of purposes and audiences;

ii. Standard 5. Students locate, select, and synthesize information from a variety of texts, media, references, and technological sources to acquire and communicate knowledge.

B. At grade 9, the English language arts test includes a NRT component from the Core Battery of the ITED and a CRT component. The tests are administered over two days.

1. The (NRT) ITED Core Battery components and standards measured include the following:

a. vocabulary;

b. reading comprehension; and

c. language: revising written materials.

d. Louisiana English language arts standards measured include the following:

i. Standard 1. Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes;

ii. Standard 2. Students write competently for a variety of purposes and audiences;

iii. Standard 3. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting;

iv. Standard 6. Students read, analyze, and respond to literature as a record of life experiences; and

v. Standard 7. Students apply reasoning and problem-solving skills to their reading, writing, speaking, listening, viewing, and visually representing.

2. The Criterion-Referenced (CRT) Components and standards measured include the following:

a. writing; and

b. using information resources;

c. Louisiana English language arts standards measured by the CRT components include the following:

i. Standard 2. Students write competently for a variety of purposes and audiences;

ii. Standard 5. Students locate, select, and synthesize information from a variety of texts, media, references, and technological sources to acquire and communicate knowledge;

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§1713. Math Tests Structure

A. At grades 3, 5, 6, and 7 the Math tests include NRT items from the Survey Battery of the ITBS. The tests are administered over one day.

1. The NRT Component includes the following:

a. multiple-choice items that assess Concepts and Estimation; and

b. multiple-choice items that assess Problem Solving and Data Interpretation.

2. The CRT Component includes the following.

a. Multiple-choice items that assess Louisiana's standards, benchmarks, and GLEs. The items include NRT items that align to the Louisiana content standards and GLEs.

b. Constructed-response items that assess one or more strands, benchmarks, and/or GLEs that require students to demonstrate the connection of the strand to the other strands and to real-life situations.

B. At grade 9, the Math test includes NRT items from the Core Battery of the ITED with the exception of computation. The test is administered over one day.

1. The NRT Component includes the following:

a. multiple-choice items that assess Math Concepts and Problem-Solving.

2. The CRT Component includes the following.

a. Multiple-choice items that assess Louisiana standards, benchmarks, and GLEs. This part includes NRT items that align to the Louisiana content standards and GLEs.

b. Constructed-response items that involve a number of separate steps and require application of multiple skills. The items are designed to assess one or more of the strands, benchmarks, and/or GLEs that require students to demonstrate the connection of the strand to the other strands and to real-life situations.

C. The NRT and CRT standards measured are:

1. Strand N: Number and Number Relations

a. Standard. In problem-solving investigations, students demonstrate an understanding of the real number system and communicate the relationships within that system using a variety of techniques and tools;

2. Strand A: Algebra

a. Standard. In problem-solving investigations, students demonstrate an understanding of concepts and processes that allow them to analyze, represent, and describe relationships among variable quantities and to apply algebraic methods to real-world situations;

3. Strand M: Measurement

a. Standard. In problem-solving investigations, students demonstrate an understanding of concepts, processes, and real-life applications of measurement;

4. Strand G: Geometry

a. Standard. In problem-solving investigations, students demonstrate an understanding of geometric concepts and applications involving one-, two-, and three-dimensional geometry, and justify their findings;

5. Strand D: Data Analysis, Probability, and Discrete Math

a. Standard. In problem-solving investigations, students discover trends, formulate conjectures regarding cause-and-effect relationships, and demonstrate critical-thinking skills in order to make informed decisions;

6. Strand P: Patterns, Relations, and Functions

a. Standard. In problem-solving investigations, students demonstrate an understanding of patterns, relations, and functions that represent and explain real-world situations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§1715. Science Tests Structure

A. The Science test includes CRT items and has one session.

1. The Science tests use multiple-choice items to assess concepts and skills in all or part of the five strands of science.

2. The Science test is entirely criterion-referenced. All items are based on Louisiana's content standards and aligned with Louisiana's GLEs.

B. Science is assessed in grades 3, 5, 6, and 7.

1. Grades 3 and 5 tests assess all five science strands.

2. Grade 6 test assesses three of the five science strands. They are as follows:

- a. Science as Inquiry;
- b. Physical Science; and
- c. Science and the Environment.

3. Grade 7 test assesses three of the five science strands. They are as follows:

- a. Science as Inquiry;
- b. Life Science; and
- c. Science and the Environment.

C. Each of the five science strands is associated with a single standard.

1. Strand: Science as Inquiry

a. Standard. Students will do science by engaging in partial and full inquiries that are within their developmental capabilities.

2. Strand: Physical Science

a. Standard. Students will develop an understanding of the characteristics and interrelationships of matter and energy in the physical world.

3. Strand: Life Science

a. Standard. Students will become aware of the characteristics and life cycles of organisms and understand their relationships to each other and their environment.

4. Strand: Earth and Space Science

a. Standard. Students will develop an understanding of the properties of earth materials, the structure of Earth's system, Earth's history, and Earth's place in the universe.

5. Strand: Science and the Environment

a. Standard. In learning environmental science, students will develop an appreciation of the natural environment, learn the importance of environmental quality, and acquire a sense of stewardship. As consumers and citizens, they will be able to recognize how our personal, professional, and political actions affect the natural world.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:

§1717. Social Studies Tests Structure

A. The Social Studies test includes CRT items and has one section.

1. The Social Studies tests use multiple-choice items to assess concepts and skills in all or part of the four content strands: Geography, Civics, Economics, and History.

2. The Social Studies tests is entirely criterion-referenced. All items are based on Louisiana's content standards and aligned with Louisiana's GLEs.

B. Social Studies is assessed in grades 3, 5, 6, and 7 are as follows:

1. Grade 3 assesses all four social studies strands;

2. Grades 5 and 6 assess two of the four social studies strands. They are as follows:

- a. Geography; and
- b. History.

3. Grade 7 assesses three of the four social studies strands. They are as follows:

- a. Geography;
- b. History; and
- c. Civics.

C. The Social Studies strands assessed are as follows.

1. Strand G—Geography: Physical and Cultural Systems

a. Standard. Students develop a spatial understanding of Earth's surface and the processes that shape it, the connections between people and places, and the relationship between man and the environment.

2. Strand C—Civics: Citizenship and Government

a. Standard. Students develop an understanding of the structure and purposes of government, the foundations of the American democratic system, and the role of the United States in the world while learning about the rights and responsibilities of citizenship.

3. Strand E—Economics: Interdependence and Decision Making

a. Standard. Students develop an understanding of fundamental economic concepts as they apply to the interdependence and decision making of individuals, households, businesses, and governments in the United States and the world.

4. Strand H—History: Time, Continuity, and Change

a. Standard. Students develop a sense of historical time and historical perspective as they study the history of their community, state, nation, and world.

AUTHORITY NOTE; Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Chapter 20. LEAP Alternate Assessment, Level 2

Subchapter A. General Provision

§2001. Introduction

A. LEAP Alternate Assessment, Level 2 (LAA 2) is a criterion-referenced assessment, which is based on modified academic achievement standards, that allows students with persistent academic disabilities who are served under the Individuals with Disabilities Education Improvement Act (IDEA) to participate in academic assessments that are sensitive to measuring progress in their learning. All content in LAA 2 was derived from the existing LEAP/GEE assessments, and all items selected were subjected to the complete process of reviews and checks to determine appropriateness and eligibility for potential use in LAA 2. The achievement levels are aligned with the *Approaching Basic* and *Basic* achievement levels of LEAP/GEE.

B. For spring 2006, LAA 2 is available only for eligible students in grades 4, 8, 10, and 11.

C. Beginning spring 2007, LAA 2 will be available for eligible students in grades 4 through 11.

D. Grade 3 students are not eligible for LAA 2; they will participate in iLEAP or LAA 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 32:239 (February 2006), amended LR 33:

Subchapter B. Target Population

§2003. Participation Criteria

(Refer to Bulletin 1530, LAC 28:XCVII, Louisiana's IEP Handbook for Students with Disabilities)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Subchapter C. Achievement Levels and Performance Standards

§2005. Achievement Levels

- A.1. The Louisiana achievement levels are:
 - a. Basic (Meeting the Standard);
 - b. Approaching Basic (Approaching the Standard);
- and
- c. Foundational;
- d. Pre-Foundational.

B. Achievement Level Definitions

Basic—a student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Approaching Basic—a student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Foundational—a student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Pre-Foundational—a student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(1) and (C).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2007. Performance Standards

A. Performance standards for LAA 2 English Language Arts, Mathematics, Science, and Social Studies tests are finalized in scaled-score form.

B. The scaled-score range of the *Approaching Basic* achievement level is exactly the same scale score range as with LEAP/GEE.

C. The beginning score for the *Basic* achievement level is also exactly the same as with LEAP/GEE.

D. The top end of the *Basic* achievement level was truncated at a scale score of 340 in all cases because the LAA 2 assessment was not designed to accurately assess students who may be emerging into the *Mastery* achievement level.

LAA 2 Achievement Levels and Scaled Score Ranges

| Achievement Level | English Language Arts Scaled Score Range | Mathematics Scaled Score Range | Science Scaled Score Range | Social Studies Scaled Score Range |
|-------------------|--|--------------------------------|----------------------------|-----------------------------------|
| Grade 4 | | | | |
| Basic | 301–340 | 315–340 | | |
| Approaching Basic | 263–300 | 282–314 | | |
| Foundational | 227–262 | 248–281 | | |
| Pre-Foundational | 100–226 | 100–247 | | |

| Achievement Level | English Language Arts Scaled Score Range | Mathematics Scaled Score Range | Science Scaled Score Range | Social Studies Scaled Score Range |
|-------------------|--|--------------------------------|----------------------------|-----------------------------------|
| Grade 8 | | | | |
| Basic | 315–340 | 321–340 | | |
| Approaching Basic | 269–314 | 296–320 | | |
| Foundational | 223–268 | 263–295 | | |
| Pre-Foundational | 100–222 | 100–262 | | |

| Achievement Level | English Language Arts Scaled Score Range | Mathematics Scaled Score Range | Science Scaled Score Range | Social Studies Scaled Score Range |
|-------------------|--|--------------------------------|----------------------------|-----------------------------------|
| Grade 10 | | Grade 11 | | |
| Basic | 299–340 | 305–340 | 301–340 | 297–340 |
| Approaching Basic | 270–298 | 286–304 | 267–300 | 275–296 |
| Foundational | 221–269 | 241–285 | 214–266 | 241–274 |
| Pre-Foundational | 100–220 | 100–240 | 100–213 | 100–240 |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Subchapter D. Achievement Level Descriptors

§2009. Introduction

A. Achievement level descriptors for Louisiana assessments were developed by committees composed of Louisiana educators who represented the subjects and grades assessed. The descriptors define what a student should know and be able to do at each achievement level for each subject assessed at a given grade level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(B).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2011. Grade 4 Achievement Level Descriptors

A. Grade 4 English Language Arts Achievement Level Descriptors

| Basic |
|--|
| <p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate overall understanding of what they read; 2. make obvious connections between information and personal experiences; 3. extend ideas in the text by making simple inferences; 4. research a topic by locating information in a variety of sources; 5. express some critical or creative thinking in response to a writing task; 6. develop a central idea with some observable organization and elaboration with a few supporting details; and 7. demonstrate audience awareness through use of general vocabulary, some sentence variety, and some evidence of personal style or voice. |
| Approaching Basic |
| <p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate partial understanding of what they read; 2. make limited connections between text and personal experiences; 3. identify obvious meanings in text and make limited or simple inferences; 4. research a topic by locating information in commonly used resources; 5. demonstrate a partial response to a writing task; 6. develop a response with a vague or weak central idea, weak organization, and few or inappropriate details; and 7. demonstrate limited audience awareness through use of simple or inappropriate vocabulary, simple sentences, and little to no evidence of personal style or voice. |
| Foundational |
| <p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate minimal understanding of what they read; 2. make minimal connections between the text and personal experiences; 3. research a topic by locating minimal information in commonly used sources; 4. demonstrate a minimal response to the writing task; 5. develop a response to a writing task using a weak or unfocused central idea, attempted organization, and little or irrelevant support; and 6. show minimal audience awareness through use of simple or inappropriate vocabulary, simple sentences, and weak personal style or voice. |

| Pre-Foundational |
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| <p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate minimal understanding of what they read; 2. make minimal connections between ideas in text and personal experiences; 3. locate some information in commonly used sources; 4. develop a response to a writing task with some evidence of a central idea, attempted organization, and some supporting details; and 5. show minimal audience awareness through use of simple vocabulary and simple sentences. |

B. Grade 4 Mathematics Achievement Level Descriptors

| Basic |
|--|
| <p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. estimate and use basic facts to perform simple computations with whole numbers; 2. show some understanding of fractions, decimals, and percents and their relationships; 3. solve some simple real-world problems in all the Louisiana mathematics content strands; 4. use—with some degree of accuracy—four-function calculators, rulers, and geometric shapes; and 5. provide written responses that are often minimal and presented without supporting information. |
| Approaching Basic |
| <p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use basic facts to perform simple computations with whole numbers; 2. recognize fractions, decimals, and percents; 3. have difficulty applying conceptual knowledge in solving real-world problems; 4. use—with some degree of accuracy—four-function calculators, rulers, and geometric shapes; and 5. provide, at best, only minimal written responses. |
| Foundational |
| <p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use a limited number of basic facts to perform simple computations with whole numbers; 2. demonstrate minimal recognition of fractions, decimals, and percents; 3. apply conceptual knowledge minimally or inappropriately in solving real-world problems; 4. use—with limited degree of accuracy or with inconsistency—four-function calculators, rulers, and geometric shapes; and 5. provide written responses that are difficult to understand or are irrelevant. |

Pre-Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to:

1. use a limited number of basic facts to perform simple computations with whole numbers;
2. demonstrate minimal recognition of fractions, decimals, and percents;
3. apply conceptual knowledge minimally in solving real-world problems;
4. use—with limited degree of accuracy—four-function calculators, rulers, and geometric shapes; and
5. provide written responses that may be partially complete.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2013. Grade 8 Achievement Level Descriptors

A. Grade 8 English Language Arts Achievement Level Descriptors

Basic

A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. demonstrate both literal and overall understanding of what they read;
2. identify some elements of text and an author's purpose;
3. extend the ideas in text by making simple inferences and drawing conclusions; recognize and relate connections among ideas in texts by drawing conclusions;
4. research a topic by selecting and using information in various sources;
5. express some critical and/or creative thinking in response to a writing task;
6. develop a central idea with a consistent focus, appropriate organization, and elaboration with some supporting details; and
7. demonstrate audience awareness through use of appropriate but general language, and some sentence variety, and a sense of personal style.

Approaching Basic

A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. demonstrate partial understanding of what they read;
2. make a few interpretations and extensions of ideas in texts;
3. make simple and broad connections between text and personal experiences;
4. research a topic by locating some information in commonly used sources;
5. demonstrate a partial response to a writing task;
6. develop a weak central idea with some evidence of organization and elaboration with few or inappropriate supporting details; and
7. demonstrate limited awareness of audience through use of simple or inappropriate vocabulary and simple sentences.

Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level generally exhibit the ability to:

1. demonstrate partial understanding of what they read;
2. make a few interpretations and extensions of ideas in the texts;
3. make simple and broad connections between the text and personal experiences;
4. research a topic by locating some information in commonly used sources;
5. demonstrate a partial response to a writing task;

6. develop a weak central idea with some evidence of organization and elaboration with a few or inappropriate supporting details; and
7. demonstrate limited awareness of audience through use of simple or inappropriate vocabulary and simple sentences.

Pre-Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to:

1. understand what they read;
2. make minimal interpretations and extensions of ideas in the text;
3. locate some information within commonly used sources;
4. develop a response to a writing task with some evidence of a central idea, attempted organization, and some supporting details; and
5. show minimal audience awareness through use of simple vocabulary and simple sentences.

B. Grade 8 Mathematics Achievement Level Descriptors

Basic

A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. complete problems correctly with the help of prompts such as diagrams, charts, and graphs;
2. solve routine, real-world problems through the appropriate selection and use of strategies and technological tools—including calculators and geometric shapes;
3. use fundamental algebraic and informal geometric concepts in problem solving;
4. determine which available data are necessary and sufficient for correct solutions and use them in problem solving; and
5. show limited skill in communicating mathematically.

Approaching Basic

A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. complete problems correctly with the help of prompts such as diagrams, charts, and graphs;
2. solve one-step problems involving basic computation (+, -, x, ÷) and follow procedural steps with instructional assistance;
3. recognize basic geometric figures;
4. recognize simple, obvious patterns;
5. use tools of technology;
6. apply conceptual knowledge inconsistently; and
7. demonstrate difficulty in transferring knowledge and skills to problem-solving situations.

Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level generally exhibit the ability to:

1. complete a limited number of problems correctly with the help of prompts such as diagrams, charts, and graphs;
2. solve few one-step problems involving basic computation (+, -, x, ÷) and follow procedural steps with detailed instructional assistance;
3. recognize a limited number of basic geometric figures;
4. recognize a limited number of simple, obvious patterns;
5. minimally use the tools of technology;
6. show minimal or inconsistent application of conceptual knowledge; and
7. demonstrate minimal or inappropriate transfer of knowledge and skills to problem-solving situations.

| Pre-Foundational |
|--|
| <p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. complete a limited number of problems correctly with the help of prompts such as diagrams, charts, and graphs; 2. solve few one-step problems involving basic computations (+, -, x, ÷) and follow procedural steps with detailed instructional assistance; 3. recognize a limited number of basic geometric figures; 4. recognize a limited number of simple, obvious patterns; 5. minimally use the tools of technology; 6. show minimal application of conceptual knowledge; and 7. demonstrate minimal transfer of knowledge and skills to problem-solving situations. |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2015. Grade 10 Achievement Level Descriptors

A. Grade 10 English Language Arts Achievement Level Descriptors

| Basic |
|---|
| <p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate overall understanding of what they read and make some interpretations; 2. identify elements of text and an author's style; 3. extend ideas in text by making simple inferences and some connections to personal experiences; 4. research a topic by selecting and using information in various sources; 5. demonstrate some evidence of critical, analytical, and/or creative thinking in response to a writing task; 6. develop a response with a central idea, evidence of some observable organization, and elaboration with some supporting details; and 7. demonstrate audience awareness through a sense of personal style or voice and some variety in vocabulary and sentence structure. |
| Approaching Basic |
| <p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate partial understanding of what they read; 2. identify some elements of text and an author's purpose; 3. make simple or broad connections between text and personal experiences; 4. research a topic by locating information in commonly used sources; 5. demonstrate a partial response to a writing task; 6. develop a response with a weak central idea, some evidence of organization, and minimal elaboration or supporting details; and 7. demonstrate limited audience awareness through use of weak personal style or voice, simple or inappropriate vocabulary, and simple sentences. |
| Foundational |
| <p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate a minimal understanding of what they read; 2. identify few elements of text and an author's purpose; 3. make minimal connections between text and personal experiences; 4. research a topic by locating minimal information in commonly |

| <ol style="list-style-type: none"> 5. used sources; 6. demonstrate a minimal response to a writing task; 7. develop a response with a weak or unfocused idea, attempted organization, and little or irrelevant support; and 8. demonstrate minimal audience awareness through use of weak personal style or voice, simple or inappropriate vocabulary, and simple sentences. |
|--|
| Pre-Foundational |
| <p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. understand what they read; 2. identify some elements of text; 3. make minimal connections between text and personal experiences; 4. locate information within commonly used sources; 5. develop a response to a writing task using a general focus, attempted organization, and minimal support; and 6. demonstrate minimal audience awareness through use of simple vocabulary and simple sentences. |

B. Grade 10 Mathematics Achievement Level Descriptors

| Basic |
|--|
| <p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use estimation to verify solutions and determine the reasonableness of results as applied to routine real-world problems; 2. use algebraic and geometric reasoning strategies to solve problems; 3. recognize relationships presented in verbal, algebraic, tabular, and graphical forms; 4. demonstrate knowledge of geometric relationships and corresponding measurement skills; 5. apply statistical reasoning in the organization and display of data and in reading tables and graphs; 6. generalize from patterns and examples in the areas of algebra, geometry, and statistics; 7. use correct mathematical language and symbols to communicate mathematical relationships and reasoning processes; and 8. use calculators appropriately to solve problems. |
| Approaching Basic |
| <p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use estimation and measurement to verify solutions and determine the reasonableness of results as applied to routine real-world problems; 2. show limited use of fundamental algebraic, geometric, and statistical reasoning in problem solving; 3. interpret data presented in various forms; 4. show limited skills in communicating mathematically; and 5. demonstrate limited application of conceptually knowledge. |
| Foundational |
| <p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use some estimation and measurement to verify solutions and determine the reasonableness of results as applied to routine real-world problems; 2. show minimal knowledge of fundamental algebraic, geometric, and statistical reasoning in problem-solving; 3. interpret data presented in limited forms; 4. show minimal skills in communicating mathematically; and 5. demonstrate minimal or inappropriate application of conceptual knowledge. |

Pre-Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to:

1. use some estimation and measurement to verify solutions and determine the reasonableness of results as applied to routine real-world problems;
2. show minimal knowledge of fundamental algebraic, geometric, and statistical reasoning in problem-solving;
3. interpret data presented in limited forms;
4. show minimal skills in communicating mathematically; and
5. demonstrate minimal application of conceptual knowledge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2017. Grade 11 Achievement Level Descriptors

A. Grade 11 Science Achievement Level Descriptors

Basic

A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. formulate valid hypotheses;
2. design a simple experiment;
3. draw appropriate conclusions;
4. develop inferences from experimentation and apply that information to new situations;
5. distinguish scientific principles from pseudoscience; and
6. apply scientific principles to their everyday life.

With inquiry as the core, students at the Basic level begin to identify unifying concepts and processes among the science disciplines—physical, life, earth/space, and the environmental sciences.

Approaching Basic

A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. know and understand fundamental science facts and concepts concerning the world; and
2. make observations, form a reasonable hypothesis, identify variables, interpret data, and draw conclusions.

These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.

Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level generally exhibit the ability to:

1. demonstrate limited knowledge and understanding of fundamental science facts and concepts concerning the world; and
2. make simple observations, attempt to form a hypothesis, identify a limited number and type of variables, minimally interpret data, and draw conclusions that may be inappropriate or inaccurate.

These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.

Pre-Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to:

1. demonstrate knowledge and understanding of fundamental science facts and concepts concerning the world with minimal accuracy or consistency; and

2. make simple observations, attempt to form a hypothesis, identify a limited number and type of variables, minimally interpret data, and draw conclusions.

These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.

B. Grade 11 Social Studies Achievement Level Descriptors

Basic

A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to do the following:

1. Geography: interpret geographical data, describe the basic physical structure of the planet, and explain the spatial relationships between humans and their environment.
2. Civics: explain structure and purposes of government, describe the foundations of the American political system, explain international relationships, and describe the roles of citizen.
3. Economics: describe fundamental economic concepts, explain decisions made by consumers, businesses, and government; and explain U.S. fiscal policy.
4. History: describe continuity and change, describe the significance of people, places, events, ideas, and documents, and examine relevant experiences from the past to describe contemporary issues.

Approaching Basic

A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to do the following.

1. Geography: identify geographical data, recognize the physical structure of the planet, and state the spatial relationships between humans and their environment.
2. Civics: identify the structure and purposes of government, recognize the foundations of the American political system, identify international relationships, and identify the roles of citizen.
3. Economics: identify fundamental economic concepts, identify decisions made by consumers, businesses, and government; and identify U.S. fiscal and monetary policies.
4. History: recognize continuity and change, recognize the significance of people, places, events, ideas, and documents, and identify relevant experiences from the past to describe contemporary issues.

Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level generally exhibit the ability to do the following.

1. Geography: identify limited geographical data, recognize a limited number of physical structures of the planet, and state a limited number of spatial relationships between humans and their environment.
2. Civics: demonstrate limited knowledge about the structure and purposes of government, demonstrate a limited understanding or recognition of the foundations of the American political system, identify a few international relationships, and identify the role of citizens with only some consistency.
3. Economics: demonstrate limited knowledge or understanding of fundamental economic concepts, identify a limited number and type of decisions made by consumers, businesses, and government; and show minimal understanding of U.S. fiscal and monetary policies.
4. History: demonstrate limited recognition of continuity and change, recognize the significance of a limited number of people, places, events, ideas and documents, and identify a limited number of relevant experiences from the past to describe contemporary issues.

Pre-Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to do the following.

1. Geography: identify geographical data, recognize physical structures of the planet, and state the spatial relationships between humans and their environment.
2. Civics: demonstrate knowledge about the structure and purposes of government, demonstrate an understanding or recognition of the foundations of the American political system, identify international relationships, and identify the role of citizens.
3. Economics: demonstrate knowledge or understanding of fundamental economic concepts, identify types of decisions made by consumers, businesses, and government, and show understanding of U.S. fiscal and monetary policies.
4. History: demonstrate recognition of continuity and change, recognize the significance of people, places, events, ideas, and documents, and identify relevant experiences from the past to describe contemporary issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Subchapter E. LAA 2 Assessment Structure **§2019. Content Standards**

A. The LAA 2 tests measure knowledge and skills deemed necessary for students to become good scholars and productive citizens. This knowledge and these skills are reflected in the content standards that were approved in August 2005 by the SBESE.

B. The LAA 2 is based on academic content standards. Modifications in the test and item format allow students with persistent academic disabilities who are served under the Individuals with Disabilities Education Improvement Act (IDEA) to participate in academic assessments that are sensitive to measuring progress in their learning.

C. The LAA 2 assessments consist of fewer items than LEAP and GEE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F)(3) and R.S. 17:183.1-17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2021. English Language Arts Tests Structure

A. The English Language Arts tests have four sessions or subtests.

1. Writing. The Writing session requires students to produce a composition in response to a prompt. The writing session measures key aspects of English Language Arts standards 2 and 3.

a. Standard 2. Students write competently for a variety of purposes and audiences.

b. Standard 3. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting.

2. Reading and Responding. The Reading and Responding session includes two short reading passages (fiction, nonfiction, no poetry), four multiple-choice and one short-answer item for each passage. Questions in this session measure key aspects of English Language Arts standards 1, 6, and 7.

a. Standard 1. Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes.

b. Standard 6. Students read, analyze, and respond to literature as a record of life experiences.

c. Standard 7. Students apply reasoning and problem-solving skills to their reading, writing, speaking, listening, viewing, and visually representing.

3. Using Information Resources. The Using Information Resources session requires students to complete a specified task designed to measure standard 5.

a. Standard 5. Students locate, select, and synthesize information from a variety of texts, media, references, and technological sources to acquire and communicate knowledge. Test items appear next to the resource needed to locate each answer. This session includes five multiple-choice items and 1 short answer item.

4. Proofreading. The Proofreading session requires students to identify mistakes in grammar, usage, and mechanics. The session consists of eight multiple-choice items formatted with a sentence as the stem followed by four answer choices. Questions in this session measure key aspects of English Language Arts standard 3.

a. Standard 3. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2023. Mathematics Test Structure

A. The Mathematics test consists of three sessions:

1. two multiple-choice sessions; and
2. one constructed-response session.

B. The Mathematics test assess the following strands:

1. Strand N: Number and Number Relations

a. Standard. In problem-solving investigations, students demonstrate an understanding of the real number system and communicate the relationships within that system using a variety of techniques and tools.

2. Strand A: Algebra

a. Standard. In problem-solving investigations, students demonstrate an understanding of concepts and processes that allows them to analyze, represent, and describe relationships among variable quantities and to apply algebraic methods to real-world situations.

3. Strand M: Measurement

a. Standard. In problem-solving investigations, students demonstrate an understanding of the concepts, processes, and real-life applications of measurement.

4. Strand G: Geometry

a. Standard. In problem-solving investigations, students demonstrate an understanding of geometric concepts and applications involving one-, two-, and three-dimensional geometry, and justify their findings.

5. Strand D: Data Analysis, Probability, and Discrete Math

a. Standard. In problem-solving investigations, students discover trends, formulate conjectures, regarding cause-and-effect relationships, and demonstrate critical-thinking skills in order to make informed decisions.

6. Strand P: Patterns, Relations, and Functions

a. Standard. In problem-solving investigations, students demonstrate an understanding of patterns, relations, and functions that represent and explain real-world situations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2025. Science Tests Structure

A. The Science tests consist of two sessions.

1. Session 1 uses a multiple-choice test items for grade 11 to assess concepts and skills in all five strands of science.

2. Session 2 consists of two short-answer questions that assess two of the four science content strands: Physical Science, Life Science, Earth and Space Science, and Science and the Environment. These questions allow students to reflect on an idea, demonstrate their understanding of concepts and processes of science, make meaning of a given set of data, or critique the information. The wording of the questions is direct and specific, and the questions focus on the quality of the students' knowledge.

B. The Science tests assess the following science strands.

1. Strand: Science as Inquiry

a. Standard. Students will do science by engaging in partial and full inquiries that are within their developmental capabilities.

2. Strand: Physical Science

a. Standard. Students will develop an understanding of the characteristics and interrelationships of matter and energy in the physical world.

3. Strand: Life Science

a. Standard. Students will become aware of the characteristics and life cycles of organisms and understand their relationships to each other and to their environment.

4. Strand: Earth and Space Science

a. Standard. Students will develop an understanding of the properties of earth materials, the structure of Earth's system, Earth's history, and Earth's place in the universe.

5. Strand: Science and the Environment

a. Standard. In learning environmental science, students will develop an appreciation of the natural environment, learn the importance of environmental quality, and acquire a sense of stewardship. As consumers and citizens, they will be able to recognize how our personal, professional, and political actions affect the natural world.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2027. Social Studies Tests Structure

A. The Social Studies tests consist of two sessions.

1. Session 1 consists of 32 multiple-choice test items for grade 11 that assess knowledge, conceptual understanding, and application of skills in all four social studies strands (i.e., Geography, Civics, Economics, and History). Items in Session 1 are intermingled across strands.

2. Session 2 consists of 2 open-ended questions calling for a constructed response and requiring higher-order thinking in a social studies context (e.g., grasping a concept, analyzing information, evaluating a principle, or applying a skill). Students may be required to construct or interpret a

chart, graph, map, timeline, or other graphic representation; to supply a short written answer; or to produce a short writing in response to a social studies issue or problem. Each of the constructed-response items represents one of the four social studies strands. Each task in part B is scored on a 0 to 2 point scale.

B. The four social studies strands assessed are:

1. Strand G—Geography: Physical and Cultural Systems

a. Standard. Students develop a spatial understanding of Earth's surface and the processes that shape it, the connection between people and places, and the relationship between man and his environment.

2. Strand C—Civics: Citizenship and Government

a. Standard. Students develop an understanding of the structure and purposes of government, the foundations of the American democratic system, and the role of the United States in the world while learning about the rights and responsibilities of citizenship.

3. Strand E—Economics: Interdependence and Decision Making

a. Standard. Students develop an understanding of fundamental economic concepts as they apply to the interdependence and decision making of individuals, households, businesses, and governments in the United States and the world.

4. Strand H—History: Time, Continuity, and Change

a. Standard. Students develop a sense of historical time and historical perspective as they study the history of their community, state, nation, and world.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2)

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., December 9, 2006, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: *Integrated LEAP and
LEAP Alternate Assessment, Level 2***

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

The proposed rule consolidates into Bulletin 118 the State Board of Elementary and Secondary Education (SBESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration. The proposed rule change will have no implementation cost to state or local governmental units.

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

There will be no effect on revenue collections at the state or local governmental levels.

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

There should be no effect on costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0610#031

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

| Course Title(s) | Recommended Grade Level | Units |
|---|-------------------------|-------|
| Agriscience IV | 12 | 1 |
| Agriscience III Laboratory | 11-12 | 1 |
| Agriscience IV Laboratory | 12 | 1 |
| Agriscience-Construction | 11-12 | 1/2 |
| Agriscience Elective | 9-12 | 1 |
| Agriscience-Entrepreneurship | 11-12 | 1/2 |
| Agriscience-Leadership Development | 11-12 | 1/2 |
| Agriscience-Welding Systems I | 11-12 | 1/2 |
| Agriscience-Welding Systems II | 11-12 | 1/2 |
| Animal Systems | 11-12 | 1/2 |
| Aquaculture | 11-12 | 1/2 |
| Biotechnology | 11-12 | 1 |
| Care and Management of Small Animals I | 11-12 | 1/2 |
| Care and Management of Small Animals II | 11-12 | 1/2 |
| Cooperative Agriscience Education I | 11-12 | 3 |
| Cooperative Agriscience Education II | 12 | 3 |
| Crop Systems | 11-12 | 1/2 |
| Environmental Applications | 11-12 | 1/2 |
| Equine Science | 11-12 | 1/2 |
| Food and Fiber | 11-12 | 1/2 |
| Forestry | 11-12 | 1/2 |
| Horticulture I | 11-12 | 1/2 |
| Horticulture II | 11-12 | 1/2 |
| Precision Agriculture | 11-12 | 1 |
| Small Engines (Applications) | 11-12 | 1/2 |
| Industry-Based Certifications | | |
| ABC Welding in Agriscience | 11-12 | 1-3 |
| ABC Carpentry in Agriscience | 11-12 | 1-3 |
| ABC Electricity in Agriscience | 11-12 | 1-3 |
| ABC Pipefitting in Agriscience | 11-12 | 1-3 |

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28: CXV.2373-2385, and 3113)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*. The proposed changes of the Career and Technical Internship policies will assure that students are able to schedule and fulfill the requirements of the course and to provide trained students to the local industry.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

§2373. Agricultural Education

A. The Agricultural Education course offerings shall be as follows.

| Course Title(s) | Recommended Grade Level | Units |
|---------------------------------------|-------------------------|-------|
| Exploratory Agriscience | 7-8 | - |
| Agribusiness | 11-12 | 1/2 |
| Agricultural Education Elective I, II | 9-12 | 1/2-3 |
| Agriscience I | 9-12 | 1 |
| Agriscience II | 10-12 | 1 |
| Agriscience III | 11-12 | 1 |

B. Agriscience III and IV Laboratory, Agriscience Internship I and II, and Cooperative Agriscience Education I and II are offered only to students who are also enrolled in Agriscience III or Agriscience IV for two consecutive semester courses during the year.

C. Semester courses are designed to be offered in the place of, or in addition to, Agriscience III and/or IV.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 33:

§2375. Business Education

A. The Business Education course offerings shall be as follows.

| Course Title(s) | Recommended Grade Level | Units |
|---|-------------------------|-------|
| Exploratory Keyboarding (Middle School) | 6-8 | - |
| Accounting I | 10-12 | 1 |
| Accounting II | 11-12 | 1 |
| Administrative Support Occupations | 11-12 | 1 |
| Business Communications | 10-12 | 1 |
| Business Computer Applications | 10-12 | 1 |
| Business Education Elective I, II | 9-12 | 1/2-3 |
| Business English | 12 | 1 |
| Business Law | 11-12 | 1/2 |
| Computer Technology Literacy | 9-12 | 1 |
| Computer Multimedia Presentations | 11-12 | 1/2 |
| Cooperative Office Education (COE) | 12 | 3 |
| Desktop Publishing | 11-12 | 1 |
| Economics | 11-12 | 1 |

| Course Title(s) | Recommended Grade Level | Units |
|--|-------------------------|-------|
| Entrepreneurship | 11-12 | 1 |
| Financial Mathematics | 10-12 | 1 |
| Introduction to Business Computer Applications | 9-12 | 1 |
| Keyboarding | 9-12 | 1/2 |
| Keyboarding Applications | 9-12 | 1/2 |
| Lodging Management I | 10-12 | 1-3 |
| Lodging Management II | 11-12 | 1-3 |
| Principles of Business | 9-12 | 1 |
| Telecommunications | 10-12 | 1/2 |
| Web Design | 10-12 | 1/2 |
| Word Processing | 11-12 | 1 |

B. Cooperative Office Education shall be limited to seniors. The students shall have successfully completed Keyboarding/Keyboarding Applications or Introduction to Business Computer Applications and one of the following: ASO or Word Processing or BCA, and have maintained an overall "C" average. The students' attendance records should also be considered. Other prerequisites may be required by the LEA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 33:

§2377. General Career and Technical Education

A. General Career and Technical Education course offerings shall be as follows.

| Course Title(s) | Recommended Grade Level | Units |
|--|-------------------------|-------|
| CTE Internship I | 11-12 | 1 |
| CTE Internship II | 12 | 1 |
| CTE Internship I | 11-12 | 2 |
| CTE Internship II | 12 | 2 |
| General Cooperative Education I | 11-12 | 3 |
| General Cooperative Education II | 12 | 3 |
| Education for Careers | 9-12 | 1/2-1 |
| Teacher Cadet I | 11-12 | 1 |
| Teacher Cadet II | 12 | 1 |
| Advanced Television Broadcasting I | 10-12 | 1-3 |
| Advanced Television Broadcasting II | 11-12 | 1-3 |
| Digital Media I | 10-12 | 1-3 |
| Digital Media II | 11-12 | 1-3 |
| Oracle Internet Academy | | |
| Database Design and Programming | 11-12 | 1 |
| Java Programming | 11-12 | 1 |
| Database Programming with PL/SQL | 11-12 | 1/2 |
| Finance Academy | | |
| Economics and the World of Finance | 11-12 | 1/2 |
| Banking and Credit | 11-12 | 1/2 |
| Financial Planning | 11-12 | 1/2 |
| Securities | 11-12 | 1/2 |
| Insurance | 11-12 | 1/2 |
| International Finance | 11-12 | 1/2 |
| Introduction to Financial Services | 11-12 | 1/2-1 |
| Hospitality and Tourism Academy | | |
| Introduction to Travel and Tourism | 11-12 | 1/2 |
| Travel and Tourism II | 11-12 | 1/2 |
| Travel Destinations I, II | 11-12 | 1/2 |
| Systems Applications | 11-12 | 1/2 |
| Economics for Travel and Tourism | 11-12 | 1/2 |
| Information Technology Academy | | |
| Introduction to Information Technology | 11-12 | 1/2 |
| Digital Networks | 11-12 | 1/2 |

| Course Title(s) | Recommended Grade Level | Units |
|------------------------------|-------------------------|-------|
| Advanced Web Tools | 11-12 | 1/2 |
| Databases | 11-12 | 1/2 |
| Introduction to the Internet | 11-12 | 1/2 |
| Logic for Programming | 11-12 | 1/2 |

B. General Cooperative Education courses shall be limited to students who meet the specific prerequisites and requirements of one of the specialized cooperative education programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 33:

§2379. Family and Consumer Sciences Education

A. The Family and Consumer Sciences (FACS) Education course offerings shall be as follows.

| Course Title(s) | Recommended Grade Level | Units |
|---|-------------------------|-------|
| Exploratory FACS | 7-8 | - |
| Family and Consumer Sciences I | 9-12 | 1 |
| Family and Consumer Sciences II | 10-12 | 1 |
| Food Science | 10-12 | 1 |
| Adult Responsibilities | 11-12 | 1/2 |
| Child Development | 10-12 | 1/2 |
| Personal and Family Finance | 10-12 | 1/2 |
| Family Life Education | 10-12 | 1/2 |
| Clothing and Textiles | 10-12 | 1/2 |
| Housing and Interior Design | 10-12 | 1/2 |
| Nutrition and Food | 10-12 | 1/2 |
| Parenthood Education | 11-12 | 1/2 |
| Advanced Child Development* | 10-12 | 1/2 |
| Advanced Clothing and Textiles* | 10-12 | 1/2 |
| Advanced Nutrition and Food* | 10-12 | 1/2 |
| FACS Elective I, II | 9-12 | 1/2-3 |
| *The related beginning semester course is prerequisite to the advanced semester course. | | |
| Occupational Courses | | |
| Clothing and Textile Occupations I | 11-12 | 1-3 |
| Clothing and Textile Occupations II | 12 | 1-3 |
| Early Childhood Education I | 11-12 | 1-3 |
| Early Childhood Education II | 12 | 1-3 |
| Food Services I | 11-12 | 1-3 |
| Food Services II | 11-12 | 1-3 |
| Food Service Technician | 11-12 | 1 |
| Housing & Interior Design Occupations | 11-12 | 1-3 |
| ProStart I | 11-12 | 1-3 |
| ProStart II | 12 | 1-3 |
| Cooperative FACS Education | 12 | 3 |

AUTHORITY NOTE: Promulgated in accordance R.S. 17:7; R.S. 17:24.4; R.S. 17:279.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 33:

§2381. Health Occupations

A. Health Occupations course offerings shall be as follows.

| Course Title(s) | Recommended Grade Level | Units |
|-------------------------------------|-------------------------|-------|
| AHEC of a Summer Career Exploration | 9-12 | 1/2 |
| Allied Health Services I | 10-12 | 1-2 |

| Course Title(s) | Recommended Grade Level | Units |
|--|-------------------------|-------|
| Allied Health Services II | 10-12 | 1-2 |
| Cooperative Health Occupations | 11-12 | 3 |
| Dental Assistant I | 10-12 | 1-2 |
| Dental Assistant II | 11-12 | 2-3 |
| Emergency Medical Technician—Basic | 10-12 | 2 |
| First Responder | 9-12 | 1/2-2 |
| Health Occupations Elective I, II | 9-12 | 1/2-3 |
| Health Science I | 11-12 | 1-2 |
| Health Science II | 12 | 1-2 |
| Introduction to Emergency Medical Technology | 10-12 | 2 |
| Introduction to Health Occupations | 9-12 | 1 |
| Introduction to Pharmacy Assistant | 10-12 | 1-2 |
| Medical Assistant I | 10-12 | 1-2 |
| Medical Assistant II | 11-12 | 1-2 |
| Medical Assistant III | 12 | 1-2 |
| Medical Terminology | 9-12 | 1 |
| Nursing Assistant I | 10-12 | 1-3 |
| Nursing Assistant II | 11-12 | 1-3 |
| Pharmacy Technician | 12 | 1-2 |
| Sports Medicine I | 10-12 | 1-2 |
| Sports Medicine | 11-12 | 1-2 |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:

§2383. Marketing Education

A. Marketing Education course offerings shall be as follows.

| Course Title(s) | Recommended Grade Level | Units |
|------------------------------------|-------------------------|-------|
| Advertising and Sales Promotion | 11-12 | 1 |
| Cooperative Marketing Education I | 11-12 | 3 |
| Cooperative Marketing Education II | 12 | 3 |
| Entrepreneurship | 11-12 | 1 |
| Marketing Education Elective I, II | 9-12 | 1/2-3 |
| Marketing Management | 11-12 | 1 |
| Marketing Research | 11-12 | 1 |
| Principles of Marketing I | 9-12 | 1 |
| Principles of Marketing II | 12 | 1 |
| Retail Marketing | 11-12 | 1 |
| Tourism Marketing | 11-12 | 1 |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:

§2385. Technology Education

A. Technology Education (formerly industrial arts) course offerings shall be as follows.

| Course Title(s) | Recommended Grade Level | Units |
|---|-------------------------|-------|
| Communication/Middle School | 6-8 | - |
| Construction/Middle School | 6-8 | - |
| Manufacturing Technology/Middle School | 6-8 | - |
| Modular Technology/Middle School | 6-8 | - |
| Transportation Technology/Middle School | 6-8 | - |

| Course Title(s) | Recommended Grade Level | Units |
|--|-------------------------|-------|
| Advanced Electricity/Electronics | 10-12 | 1 |
| Advanced Metal Technology | 10-12 | 1 |
| Advanced Technical Drafting | 10-12 | 1 |
| Advanced Wood Technology | 10-12 | 1 |
| Architectural Drafting | 10-12 | 1 |
| Basic Electricity/Electronics | 9-12 | 1 |
| Basic Metal Technology | 9-12 | 1 |
| Basic Technical Drafting | 9-12 | 1 |
| Basic Wood Technology | 9-12 | 1 |
| Communication Technology | 9-12 | 1 |
| Construction Technology | 10-12 | 1 |
| Cooperative Technology Education | 10-12 | 3 |
| Energy, Power, and Transportation Technology | 9-12 | 1 |
| General Technology Education | 9-12 | 1 |
| Manufacturing Technology | 9-12 | 1 |
| Materials and Processes | 10-12 | 1 |
| Physics of Technology I | 10-12 | 1 |
| Physics of Technology II | 11-12 | 1 |
| Power Mechanics | 9-12 | 1 |
| Technology Education Computer Applications | 9-12 | 1 |
| Technology Education Elective I, II | 9-12 | 1/2-3 |
| Welding Technology | 10-12 | 1 |
| Industry-Based Certifications | | |
| Process Technician I, II | 11-12 | 1 |
| ABC Carpentry I, II TE | 11-12 | 1-3 |
| ABC Electrical I, II TE | 11-12 | 1-3 |
| ABC Instrumentation Control Mechanic I, II | 11-12 | 1-3 |
| ABC Pipe Fitter I, II TE | 11-12 | 1-3 |
| ABC Welding Technology I, II TE | 11-12 | 1-3 |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:

§3113. Work-Based Learning

A. - C. ...

D. Certification Requirements for Teachers

1. The cooperative education teacher-coordinator shall hold a valid teaching certificate entitling the holder to teach cooperative education in the CTE program or a valid CTTIE certificate to teach Trade and Industrial Cooperative Education. A General Cooperative Education educator shall hold a valid cooperative education certification.

2. The internship teacher-coordinator shall hold a valid teaching certificate in the CTE program that aligns with the student's internship worksite. A General CTE Internship educator shall hold a valid CTE or CTTIE certification.

E. Scheduling Work-based Learning

1. ...

2. Internships shall incorporate classroom instruction and on-the-job training. The classroom phase shall include a minimum 1 class period per week throughout the course of CTE related classroom instruction. The on-the-job training phase shall include a minimum of 155 hours for a 1 credit course or a minimum 335 hours for a 2 credit course throughout the course. Teacher-coordinators shall be scheduled for classroom instruction and on-the-job supervision.

F. - G.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1310 (June 2005), amended LR 33:

Family Impact Statement

- 1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., December 9, 2006, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Beth Scioneaux
Deputy Superintendent
0610#079

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Business Education (LAC 28: CXV.2375)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to Bulletin 741—Louisiana Handbook for School Administrators: §2375, Business Education. The action is being requested to assure that students in the Career and Technical Web Design course have adequate time to be trained in the skills requested by business and industry.

Title 28
EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

§2375. Business Education

A. The Business Education course offerings shall be as follows.

Table with 3 columns: Course Title(s), Recommended Grade Level, Units. Lists various business education courses like Exploratory Keyboarding, Accounting I, Business Communications, etc.

B. Cooperative Office Education shall be limited to seniors. The students shall have successfully completed Keyboarding/Keyboarding Applications or Introduction to Business Computer Applications and one of the following: ASO or Word Processing or BCA, and have maintained an overall "C" average. The students' attendance records should also be considered. Other prerequisites may be required by the LEA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., December 9, 2006, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 741—Louisiana Handbook for School Administrators—Business Education**

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

The proposed revision will change the Career and Technical Web Design course credit value. It is estimated that there will be no additional costs to state governmental units. It is unknown at this time if there are any costs to local governmental units; however, it is likely that the cost will be minimal if a school system has to reprint certain items associated with these classes such as course offering sheets or counseling brochures.

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

There will be no effect on revenue collections by state/local governmental units.

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

The proposed changes are being requested to assure that students in the Career and Technical Web Design course have adequate time to be trained in the skills requested by business and industry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
0610#078

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.403)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, §403. Introduction. This revision to the policy for ancillary certification as a Child Nutrition Program Supervisor would allow any individual with a master's degree from a regionally accredited college or university to complete guidelines for certification in this area. This will allow more flexibility for individuals completing certification as a Child Nutrition Program Supervisor, increasing the pool of qualified applicants for employment in this area.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

§403. Introduction

A. Child Nutrition Program Supervisor—valid for life with continuous service.

B. Basic Eligibility Requirements. A master's degree from a regionally accredited institution of higher education.

C. Eligibility Requirements in Areas of Specialty

1. Specialty in Food Service:

a. a minimum of three years of successful experience in home economics education or quantity food service management; and

b. a minimum of 21 semester hours—six semester hours in nutrition related to humans, three semester hours in quantity food preparation, and 12 semester hours in at least four of the following subjects:

i. Quantity Food Service;

ii. Organization and Management;

iii. Quantity Food Service Equipment and Layout;

iv. Accounting;

v. Statistics;

vi. Microbiology;

vii. Food Service or Technology.

2. Specialty in Nutrition:

a. a minimum of three years of successful experience in teaching, nutrition education, public health nutrition, clinical or administrative dietetics, cooperative extension, or food service management;

b. graduate and/or undergraduate course work, as follows:

i. nutrition, 18 semester hours—six semester hours in nutrition related to humans, and 12 semester hours may include nutrition, physiology, biochemistry, microbiology, or bacteriology;

ii. foods, nine semester hours;

iii. statistics, research methodology, or evaluative techniques, three semester hours; and

iv. a minimum of 12 semester hours in at least two of the following subjects:

(a). Quantity Food Preparation or Quantity Cookery;

(b). Child or Adolescent Psychology;

(c). Communication and Speech;

(d). Educational Materials and/or Methods;

(e). Personnel or Institutional Management.

D. Reinstatement of a lapsed Certificate: If certificate holder allows a period of five consecutive calendar years to pass in which he/she is not regularly employed as a Child Nutrition Program Supervisor for at least one semester, or 90 consecutive days, he/she must present evidence of having earned six semester hours of credit in state-approved courses (see Appendix C). The six semester credit hours must be earned during the five year period immediately preceding reinstatement.

E. A special provisional certificate, Acting Child Nutrition Program Supervisor, may be issued to an individual employed in this capacity.

1. Eligibility Requirements. A baccalaureate or master's degree from a regionally accredited institution of higher education.

2. Renewal Guidelines. Valid for one year and renewable each year thereafter upon presentation of six semester hours of applicable credit toward completion of all requirements for permanent certification as a Child Nutrition Program Supervisor.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit comments until 4:30 p.m., December 9, 2006, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel

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

This revision to the policy for ancillary certification as a Child Nutrition Program Supervisor would allow any individual with a master's degree from a regionally accredited college or university to complete guidelines for certification in this area. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

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)

This policy will have no effect on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
0610#033

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Junior Reserve Officers Training Corps Instructor (ROTC)(LAC 28:CXXXI.408)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, §408. Junior Reserve Officers Training Corps Instructor (ROTC). This policy allows the issuance of an Ancillary ROTC certificate to an individual who has retired from the active duty in the military or who has been officially recommended by the appropriate branch of the military service, with certification by the appropriate Department of Defense unit, to serve as a Junior Reserve Officers Training Corps Instructor (ROTC). At present, there is no certification area that allows an individual to serve as an instructor for ROTC. The proposed ancillary certificate would make available to school districts an instructor qualified to perform these duties.

**Title 28
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for
State Certification of School Personnel**

**§408. Junior Reserve Officers Training Corps
Instructor (ROTC)**

A. An ancillary certificate issued in ROTC authorizes an individual to teach Junior ROTC.

B. Provisional Certification: Valid for five years.

1. Eligibility Requirements

a. Be retired from active duty in the retired grades of E-6 through E-9, WO-1 through CWO-5, 03 through 06; and

b. official recommendation by appropriate branch of the military service with certification by the appropriate Department of Defense.

2. Renewal Guidelines. May be renewed upon request of the Louisiana employing authority.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., December 9, 2006, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

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

**RULE TITLE: Bulletin 746—Louisiana Standards for
State Certification of School Personnel—Junior Reserve
Officers Training Corps Instructor (ROTC)**

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

This policy allows the issuance of an Ancillary ROTC certificate to an individual who has retired from the active duty in the military or who has been officially recommended by the

appropriate branch of the military service, with certification by the appropriate Department of Defense unit, to serve as a Junior Reserve Officers Training Corps Instructor (ROTC). The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

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)**

This policy will have no effect on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
0610#058

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Scholarship/Grant Programs—Higher Education
(LAC 28:IV.301 and 1103)

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

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance
Higher Education Scholarship and Grant Programs
Chapter 3. Definitions**

§301. Definitions

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

* * *

Average Award Amount (TOPS-Tech)—is applicable to those students awarded the TOPS-Tech and TOPS Opportunity, Performance, and Honors Awards who attend LAICU colleges and universities and are enrolled in a vocational, technical education certificate or diploma program or non-academic undergraduate degree program, and is determined by dividing the total dollar value of awards, which are made to students enrolled in the same types of programs in the prior program year (non-academic program) at eligible public colleges and universities that do not offer academic degrees at the baccalaureate level, by the total number of students that received the awards. To ensure that the average award amount (TOPS Tech) is not reduced for students during program year (non-academic program) 2006-2007 because of the adverse affects of Hurricanes Katrina and Rita on student enrollment, the average award amount (TOPS Tech) for program year (non-academic program) 2006-2007 shall be the same as calculated for program year (non-academic program) 2005-2006.

* * *

Merit Ranking Formula—a mathematical equation incorporating selected merit factors that is used to rank eligible applicants in the priority by which competitive scholarships are to be awarded. As of July 1, 1997, the TOPS Teacher Award and Rockefeller State Wildlife Scholarship are the only programs in which applicants are competitively ranked. The following formulas for the merit ranking of scholarship applicants provide for the equating of scores for high school graduating seniors and college students.

a. Formula I—applies to applicants for the Rockefeller State Wildlife Scholarship with less than 24 hours of graded college credit and to applicants for the TOPS Teacher Award with less than 48 hours of graded college credit:

$$\text{Merit Score} = \left(\left(\frac{\text{HSGPA}}{4.00} \right) \times 60 \right) + \left(\left(\frac{\text{ACT}}{36} \right) \times 40 \right)$$

b. Formula IA—applies to applicants for the Rockefeller State Wildlife Scholarship who are qualified home study completers with less than 24 hours of graded college credit:

$$\text{Merit Score} = \left(\frac{\text{ACT}}{36} \right) \times 100$$

c. Formula II—applies to applicants for the Rockefeller State Wildlife Scholarship with 24 or more hours of graded college credit and to applicants for the TOPS Teacher Award with 48 or more hours of graded college credit:

$$\text{Merit Score} = \left(\left(\frac{\text{College GPA}}{4.00} \right) \times 90 \right) + \left(\left(\frac{\text{College Level}}{4} \right) \times 10 \right)$$

d. Formula III—applies to applicants for the TOPS Teacher Award. For those applicants majoring in math or chemistry, an additional 10 points are added to the merit score determined by Formula I or II, resulting in an adjusted merit score.

e. Applicants' merit scores are ranked in descending order with the applicant with the highest merit score ranked first. The number of applicants selected for award is dependent upon the amount of award funds available.

* * *

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993 and 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), repromulgated LR 27:1842 (November 2001), amended LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330 and 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:

Chapter 11. Rockefeller State Wildlife Scholarship §1103. Establishing Eligibility

A. To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen; and

2. be a resident of Louisiana, as defined in §301 for at least one year prior to July 1 of the award year; and

3. submit the completed Free Application for Federal Student Aid (FAFSA) or the Renewal FAFSA, whichever is applicable to the student, by final deadline set forth in §501.C or §505.F; and

4. complete and submit such documentary evidence as may be required by LASFAC; and

5. not have a criminal conviction, except for misdemeanor traffic violations; and

6. agree that award proceeds will be used exclusively for educational expenses; and

7. be enrolled or accepted for enrollment as a full-time undergraduate or graduate student at a Louisiana public college or university majoring in forestry, wildlife or marine science, with the intent of obtaining a degree from a Louisiana public college or university offering a degree in one of the three specified fields; and

8.a. must have graduated from high school, and if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, have earned a minimum cumulative high school grade point average of at least 2.50 calculated on a 4.00 scale for all courses completed in grades 9 through 12, have taken the ACT or SAT and received test score results and, beginning with the 2006-2007 academic year (college), have an ACT Score of at least 20; or

b. beginning with the 2006-2007 academic year (college), must be a qualified home study completer and, if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, achieve an ACT Score of at least 22; or

c. if, at the time of application, the student applicant has earned 24 or more hours of college credit, then the applicant must have at least a 2.50 cumulative college grade point average; or

d. if, at the time of application, the student is in graduate school, then the applicant must have at least a 3.00 cumulative grade point average on all credits earned in graduate school.

9. To be a qualified home study completer for the purposes of this Section, the applicant must:

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

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

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:639 (April 1998), amended LR 24:1908 (October 1998), LR 27:1220 (August 2001), repromulgated LR 27:1859 (November 2001), amended LR 28:774 (April 2002), LR 29:125 (February 2003), LR 30:2020 (September 2004), LR 33:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. (SG0776NI)

Interested persons may submit written comments on the proposed changes until 4:30 p.m., November 10, 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: Scholarship/Grant Programs Higher Education

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

There is no costs or savings to state or local governmental units due to this change. The change allows home study completers to compete with high school graduates for the limited number of Rockefeller State Wildlife Scholarships. In addition, the change sets the payment level to be paid for TOPS Tech eligible students attending a Louisiana Association of Independent Colleges and Universities affiliated school at the same level paid during the 2005-2006 Program Year (Non-academic Program).

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)

Home study completers will receive a small benefit since they will now be able to compete for a Rockefeller State Wildlife Scholarship. There are no estimated effects on economic benefits to 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
0610#002

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Abrasive Blasting Emissions
(LAC 33:III.1323, 1325, 1327,
1329, 1331, and 1333)(AQ249)

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 adopt the Air regulations, LAC 33:III.1323, 1325, 1327, 1329, 1331, and 1333 (Log #AQ249).

This proposed rule is intended to reduce particulate matter emissions from any facility that engages in or contracts to provide abrasive blasting and that is classified under a Standard Industrial Classification (SIC) Code beginning with 34, 35, or 37, or under SIC Code 1622 or 1721. The current rule is vague and not consistently followed. This rule clarifies the existing regulation by specifying the following standards of performance for abrasive blasting: prohibited materials and methods that cannot be used in abrasive blasting activities; requirement to control emissions through either enclosure or establishment of Best Management Practices; maintenance of control equipment; and recordkeeping requirements. Abrasive blasting is a common practice in Louisiana and is not currently regulated in a consistent manner. Many of the complaints received by the department are related to abrasive blasting emissions. This situation can be ameliorated by setting clear performance standards that apply equally to all businesses that engage in abrasive blasting. The basis and rationale for this rule are to improve air quality by reducing particulate matter emissions.

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 13. Emission Standards for Particulate Matter

Subchapter F. Abrasive Blasting

§1323. Emissions from Abrasive Blasting

A. Purpose. The purpose of this Subchapter is to reduce particulate matter emissions from facilities that engage in abrasive blasting.

B. Scope. This Subchapter applies to any facility in the state that engages in or contracts to provide on-site abrasive blasting and that is classified under a Standard Industrial Classification (SIC) Code beginning with 34, 35, or 37 or under SIC Code 1622 or 1721.

C. Compliance with these regulations does not eliminate the requirement to comply with any other state or federal regulation or any specific condition of a permit granted by the department.

1. Any new facility that is constructed after promulgation of these regulations shall comply with all of the requirements of this Subchapter before operation may commence.

2. Existing affected facilities shall comply with all of the requirements of this Subchapter as soon as practicable, but no later than one year after promulgation of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§1325. Definitions

A. Terms used in this Subchapter are defined in LAC 33:III.111 with the exception of the terms specifically defined below.

Abrasive Material (Abrasives, Abrasive Media)—any material used in abrasive blasting operations including, but not limited to, sand, slag, steel shot/grit, garnet, CO₂, or walnut shells.

Abrasive Blasting—the operation of cleaning or preparing a surface by forcibly propelling a stream of abrasive material against the surface.

Abrasive Blasting Equipment—any equipment utilized in abrasive blasting operations.

Emission Control Equipment—any device or contrivance, operating procedure, or abatement scheme, including, but not limited to, filters, ventilation systems, shrouds, or best management practices, that prevents or reduces the emission of air contaminants from blasting operations.

Enclose—to place tarps, shrouds, or a solid structure on all sides and the top of an area used for abrasive blasting, or to fully enclose a structure to be blasted.

Hydroblasting—abrasive blasting using high-pressure liquid as the propelling force or as the active cleaning agent.

Indoor Abrasive Blasting—abrasive blasting conducted inside of a permanent building equipped with a particulate matter collection system.

Nuisance—any condition of the ambient air beyond the property line of the offending source that is offensive to the senses, or that causes or constitutes an obstruction to the free use of property, so as to unreasonably interfere with the comfortable enjoyment of life or property. In determining whether or not a nuisance exists, the department may consider factors including, but not limited to, the following:

- a. the frequency of the emission;
- b. the duration of the emission;
- c. the intensity and offensiveness of the emission;
- d. the number of persons impacted;
- e. the extent and character of the detriment to the complainant; and
- f. the source's ability to prevent or avoid harm.

Shade Factor—for shrouds, the percent of area impermeable to particles 100 grit or greater, or to sunlight.

Shroud or Tarp—a device that is designed to enclose or surround the blasting activity to minimize the atmospheric dispersion of fine particulates and direct that material to a confined area for subsequent removal and disposal.

Surround—to place tarps, shrouds, or a solid structure on all sides of an area used for abrasive blasting.

Wet Abrasive Blasting—abrasive blasting with the addition of water to the air abrasive stream.

Vacuum Blasting—abrasive blasting in which a seal is maintained between the assembly and the blasting surface, thereby allowing the spent abrasive, surface material, and dust to be immediately collected by a vacuum device, equipped with a high efficiency (at least 95 percent) particulate filtration system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§1327. Blasting Operations

A. Abrasive Materials and Methods

1. Material derived from hazardous, toxic, medical, and/or municipal waste is prohibited from use as abrasive material.

2. Abrasives shall contain less than 10 percent (by weight) of fines that would pass through a No. 80 sieve as documented by the supplier. For the purpose of determining weight percent of fines in abrasive material, samples shall be taken according to ASTM standard ASTM D 75-87, reapproved 1992.

3. Abrasives shall not be reused for abrasive blasting unless they meet the requirements of Paragraph A.2 of this Section.

B. The following abrasives and blasting methods are exempt from the provisions of Paragraph A.2 of this Section and LAC 33:III.1329.A and F and LAC 33:III.1333.A.4-5:

1. abrasive blasting using iron or steel shot/grit;
2. abrasive blasting using CO₂;
3. hydroblasting or wet abrasive blasting;
4. vacuum blasting; and
5. abrasive blasting using other abrasives, as approved

by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§1329. Performance Standard

A. Affected facilities shall either:

1. fully enclose the structure or item to be blasted; or
2. prepare and implement a best management practices (BMP) plan as described in LAC 33:III.1331.

B. Blast cabinet exhaust shall be re-circulated to the cabinet or vented to emission control equipment.

C. If tarps are used to confine emissions due to abrasive blasting, the tarps shall:

1. have overlapping seams to prevent leakage of particulate matter;
2. have a shade factor of 80 percent or greater; and
3. be repaired prior to use if any single tear greater than 1 foot in length is present or if multiple tears greater than 6 inches in length each are present.

D. If blasting is performed in a permanent building with a particulate matter collection system, the collection system shall be exhausted through effective control equipment with a particulate matter outlet grain loading of 0.05 g/dscf or less, as documented by the control equipment manufacturer.

E. When abrasive blasting is performed over waters of the state, no blasting material or visible floating solids shall reach waters of the state unless such a discharge is authorized according to the LPDES permit program.

F. Abrasive blasting activities shall not create a nuisance.

G. The facility shall maintain stockpiles of new and/or spent abrasive material in a manner that will minimize fugitive airborne emissions. Measures to minimize emissions shall include, but not be limited to, the following:

1. covering stockpiled material;
2. wetting stockpiled material; or
3. keeping stockpiled material in containers.

H. All emission control equipment shall be used and diligently maintained in proper working order according to the manufacturer's specifications whenever any emissions are being generated that can be controlled by the facility, even if the ambient air quality standards in affected areas are not exceeded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§1331. Best Management Practices (BMP) Plans

A. Facilities that decide to use a BMP plan to comply with this Subchapter shall comply with all the requirements of this Section.

B. A complete copy of the BMP plan shall be kept at the facility and be made available to authorized representatives of the department upon request. Plans need not be submitted to the department unless requested by an authorized representative of the department.

C. Each facility shall have a designated person who is accountable for the implementation and effectiveness of the BMP plan.

D. Amendment of BMP Plan

1. After review of the plan by the department and/or upon receiving notice of a complaint, the department may require the owner/operator of the facility to amend the plan if there are indications that the plan does not adequately prevent nuisances and/or adverse off-site impacts.

2. The plan shall be amended whenever physical or operational modification of the facility renders the existing plan inadequate. The amendment shall be implemented prior to or concurrent with the facility modification.

E. Periodic Review of BMP Plan. The owner/operator of a facility shall review the plan every three years to determine if the plan adequately reduces nuisances and adverse off-site impacts. If it is determined that the plan is not adequate, the plan shall be amended within 90 days of the review to include more effective emission prevention and control technology.

F. Contents of BMP Plan. The BMP plan shall be prepared in accordance with sound engineering practices and must be site-specific. The plan information shall be presented in the following sequence:

1. the name, mailing address, and location of the facility;
2. the name of the operator of the facility;
3. the date and year of initial facility operation;
4. a description of the facility, including an indication of any nearby recreational areas, residences, or other structures not owned or used solely by the facility, and their distances and directions from the facility;
5. a description of any nearby waters of the state that may be affected, and their distances and directions from the facility;
6. a statement of the facility's procedures for preventing nuisances and/or adverse off-site impacts, including a description of any emission control equipment;
7. a statement of the facility's capability and procedures for taking corrective actions and/or countermeasures when nuisances and/or adverse off-site impacts occur;
8. written procedures for self-monitoring and self-inspection of the facility;
9. personnel training records as required by this Subchapter; and
10. signatures of responsible officials.

G. Provisions for personnel training shall be included in the BMP plan as follows.

1. Any employee and/or contractor conducting abrasive blasting shall be trained on proper abrasive blasting methods, proper handling of abrasive and spent material and floatable solids, the facility's plan, and good housekeeping practices for the facility.

2. Employees and contractors shall receive training pertaining to the plan at least once a year or when significant changes are made to the plan that affect their activities.

3. Employees, contractors, and customer representatives shall be instructed not to dispose of abrasive, spent, or floatable materials to air and water bodies or to drains, drainage channels, or trenches that lead to water bodies.

4. Contractors shall be notified of and required to perform in accordance with the provisions of the plan applicable to activities related to their contract.

H. Inspections and Records

1. The BMP plan shall be reviewed every three years to ensure that the plan meets the requirements of this Subchapter. Records of this review shall be signed or initialed by the person conducting the review, and an appropriate supervisor or the facility designee, and shall be retained for a minimum of three years.

2. In addition to other recordkeeping and reporting requirements of this Section, the following records should be maintained on the facility premises:

- a. self-inspection reports;
- b. documentation of employee and contractor training, including dates, subjects, and hours of training and a list of attendees with signatures.

I. Verification by the Department. Facilities to which this Subchapter applies may be inspected by an authorized representative of the department to ensure implementation and adequacy of the facility's BMP plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§1333. Recordkeeping and Reporting

A. The facility owner/operator shall maintain the following records on the facility premises at all times, and present them to an authorized representative of the department upon request:

1. permit application approval records and the facility's permit to construct/operate, where applicable;
2. a description of the type of *emission control equipment*, as defined in LAC 33:III.1325, employed at the facility;
3. descriptions and diagrams showing the locations of blasting operations on-site;
4. a monthly record of abrasive material usage, including weight percent of fines in abrasive material *per* the manufacturer or *per* sampling, if abrasive material is being reused. For the purpose of determining weight percent of fines in abrasive material, samples shall be taken according to ASTM standard ASTM D 75-87, reapproved 1992;
5. applicable results, and data derived from results, of containment, ventilation, air, soil, fines, and other monitoring activities;
6. records of how spent material is handled, recycled, reused, or disposed of, including the names of, and any

manifests or receipts from, any off-site facilities that accept the spent material; and

7. for abrasive blasting that is performed outside of a full enclosure or a blast cabinet, the following:

- a. observations of wind direction, recorded hourly;
- b. visual observations of particulate matter emissions, recorded hourly;
- c. a daily record of actual operating times when such blasting is performed, based on a 24-hour clock.

B. Records required by this Subchapter or any BMP plan used to attain compliance with this Subchapter shall be maintained on a 30-day rolling basis with a three-year retention period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on November 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. Parking in the Galvez Garage is free 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 AQ249. Such comments must be received no later than December 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 AQ249. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations, Monthly Regulation Changes.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Abrasive Blasting Emissions

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

The proposed rule changes are not expected to increase or reduce the cost to the state. No permitting requirements above

those already in existence will be required. There will be no implementation costs or savings to local governmental units.

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

There will be no change in revenue collections due to the proposed rule changes.

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

The estimated costs and/or economic benefits to directly affected persons or non-governmental groups are minimal. Most facilities already utilize the required materials to meet the current standards.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Effects on competition and employment within the industry will be negligible. The proposed rule change will affect the regulated community equally.

Herman Robinson, CPM
Executive Counsel
0610#039

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

IBR of Administrative Reporting Exemption for Certain Air Releases of NO_x (NO and NO₂) (LAC 33:I.3931)(OS076ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.3931 (Log #OS076ft).

This proposed rule is identical to federal regulations found in 71 FR 58525-58533, No. 192, October 4, 2006, 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 rule incorporates by reference EPA administrative reporting exemptions for releases that are a result of combustion of less than 1000 pounds of nitrogen oxide (NO) and less than 1000 pounds of nitrogen dioxide (NO₂) to the air in 24 hours. The noncombustion-related releases of NO and NO₂ reportable quantities remain at 10 pounds. This rule is required to make the state regulations equivalent to federal regulations. The basis and rationale for this rule are to mirror the federal regulations.

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

Title 33
ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 2. Notification

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

A. Incorporation by Reference of Federal Regulations

1. Except as provided in Subsection B of this Section, the following federal reportable quantity lists are incorporated by reference:

a. 40 CFR 117.3, July 1, 2005, Table 117.3—Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and

b. 40 CFR 302.4, July 1, 2005, Table 302.4—List of Hazardous Substances and Reportable Quantities.

2. Amendments as promulgated on October 4, 2006, in the *Federal Register*, 71 FR 58525-58533, to 40 CFR Part 302, Designation, Reportable Quantities, and Notification, and 40 CFR Part 355, Emergency Planning and Notification, are hereby incorporated by reference.

B. - Note #. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:751 (April 2004), LR 30:1669 (August 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 32:

A public hearing will be held on November 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. Parking in the Galvez Garage is free 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 OS076ft. Such comments must be received no later than November 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 OS076ft. This regulation is

available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

0610#053

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Public Record Requests for Legal Documents
(LAC 33:I.2007 and 2305)(OS074)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.2007 and 2305 (Log #OS074).

This rule clarifies that regulations in LAC 33:I.Chapter 23 for public record requests apply to copies made as a direct result of suit for judicial review of an LDEQ decision (typically a permit decision). Suits for judicial review require preparation of an administrative record of decision by the Legal Affairs Division in accordance with LAC 33:I.Chapter 20. Once the administrative record of decision is compiled and indexed, a certified copy is prepared for filing with the court. Often, the person filing suit wants an additional copy of the record being filed for his own use. If an appeal to the First Circuit Court is taken, then an additional copy of the index and record must be filed with that court. All of these copies must be paid for, in accordance with state law. Clarifying that Chapter 23 applies to these records provides authority to charge for copies prepared for filing with a court at the reduced rate. The basis and rationale for this proposed rule are to ensure compliance with state law when providing the public with copies of public records, including when copies are made for submission to a court.

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

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures
Chapter 20. Records of Decision for Judicial Review

§2001. Scope and Purpose

A. ...

B. The copying, assembly, and lodging of a record of decision with a court of competent jurisdiction pursuant to an appeal or other request for judicial review of an agency decision or other department action shall be considered a public records request in accordance with LAC 33:I.Chapter 23.

1. The cost, in accordance with LAC 33:I.Chapter 23, of the preparation of a record of decision for lodging with the court shall be borne by the person seeking judicial review unless otherwise assigned by the court.

2. In the event of conflict between the requirements of LAC 33:I.Chapter 23 and this Chapter, the requirements of this Chapter shall apply.

C. These regulations do not apply to matters handled by the Department of State Civil Service, Division of Administrative Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, 2050.20.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:857 (May 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

Chapter 23. Procedures for Public Record Requests **§2305. Standard Operating Procedures**

A. All requests for copies of public records, including discovery requests, subpoenas duces tecum for production of public records, and the preparation of a record of decision pursuant to LAC 33:I.Chapter 20, shall be made using LDEQ Form ISD-0005-01. A certification on LDEQ Form ISD-0005-02 shall be submitted with a request for free or reduced rate copies. Completed forms may be submitted in person, by mail, by facsimile, or by another approved method. No other form of request will be honored. Copies of the forms may be obtained through the department's website or from the department's custodian of records.

B. Payment shall be made in accordance with the rates established in this Chapter.

C. Advance payment is required, except for a request for an administrative record of decision required to be lodged with a court. Payment shall be made only by check or money order made payable to the Department of Environmental Quality. The department does not accept cash.

D. In order to ensure the preservation of department records, no records shall leave the premises, whether accompanied by agency personnel or otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 29:702 (May 2003), amended by the Office of Environmental Assessment, LR 30:2020 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on November 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. Parking in the Galvez Garage is free 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 OS074. Such comments must be received no later than December 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 OS074. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations, Monthly Regulation Changes.

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: Public Record Requests for Legal Documents

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

There will be no fiscal impact as a result of this proposed rule.

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

There will be no fiscal impact as a result of this proposed rule. This rule clarifies the application of fees to this segment of requests as are currently being charged by the department.

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

There will be no fiscal impact as a result of this proposed rule to the regulated community or non-governmental groups. This rule clarifies the application of fees to this segment of requests as are currently being charged by the department

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment as a result of this proposed rule.

Herman Robinson, CPM
Executive Counsel
0610#040

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

State Manifest Requirements
(LAC 33:V.1107 and 5136)(HW093)

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 Hazardous Waste regulations, LAC 33:V.1107 and 5136 (Log #HW093).

This rule removes state hazardous waste manifest requirements that are no longer valid. A new federally-mandated manifest rule that supersedes the state requirements became effective on September 5, 2006. The EPA rule was adopted by the department in May 2006. This rule cleans up state requirements remaining in the regulations due to the delayed effective date, including the fee. This rule is required for state RCRA program compliance. The basis and rationale for this rule are to mirror the federal regulations.

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

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 11. Generators

Subchapter A. General

§1107. The Manifest System

A. General Requirements

1. - 7. ...

8. The requirements of this Chapter and LAC 33:V.1109.C do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding LAC 33:V.1301.A, the generator or transporter must comply with the requirements for transporters set forth in LAC 33:V.1315 and 1317 in the event of a discharge of hazardous waste on a public or private right-of-way.

B. Required Information

1. The manifest must contain all of the following information before being issued:

a. the name, physical address, telephone number, and active EPA identification number of the generator;

b. the name, physical address, telephone number, and active EPA identification number of each transporter;

c. the name, physical address, telephone number, and active EPA identification number of the designated facility;

d. the description of the waste(s) (e.g., proper shipping name, EPA hazardous waste number, etc.) required

by Hazardous Materials regulations of the Louisiana Department of Public Safety and Corrections in LAC 33:V.Subpart 2.Chapter 101; and

e. the total quantity of each hazardous waste in tons, cubic yards, pounds, or gallons (liquids only), and the type, including but not limited to, metal drums, barrels, kegs, fiberboard or plastic drums, cargo tanks, tank trucks, dump trucks, metal boxes, cartons, cases, burlap bags, paper bags, plastic bags, wooden drums, portable tanks, tank cars, cylinders, wooden boxes, and fiber or plastic boxes, and number of containers as loaded into or onto the transport vehicle. If the weight is unknown, the volume and estimated weight shall be provided.

B.2. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:266, 267 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000), LR 27:42 (January 2001), LR 27:709 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:823 (May 2006), LR 33:

Chapter 51. Fee Schedules

§5136. Manifest Form Fee

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:267 (March 1995), repealed by the Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on November 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. Parking in the Galvez Garage is free 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 HW093. Such comments must be received no later than December 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 HW093. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations, Monthly Regulation Changes.

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: State Manifest Requirements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no fiscal impact as a result of this proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Approximately \$65,000 in revenue will be lost to the department. The Environmental Protection Agency (EPA) issued a rule that was effective September 5, 2006, that put an end to state-produced manifests. The department adopted that rule in May 2006. This rule cleans up requirements remaining in the regulations due to the delayed effective date, including the fee. There is no impact on local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no fiscal impact as a result of this proposed rule to the regulated community or non-governmental groups. EPA will still charge fees for the manifests.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition or employment as a result of this proposed rule.

Herman Robinson, CPM
Executive Counsel
0610#041

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Waste Tire Fee Exemption for Salvage Yards
(LAC 33:VII.10505, 10519,
10521, and 10533)(SW042)

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 Solid Waste regulations, LAC 33:VII.10505, 10519, 10521, and 10533 (Log #SW042).

This rule establishes an exemption from the waste tire fee levied pursuant to R.S. 30:2413(A)(8) for tires salvaged from Louisiana-titled vehicles and sold by scrap or salvage yards. Act 821 of the 2006 Regular Session of the Louisiana Legislature provides for this exemption for the period of July 1, 2006 through June 30, 2008. These regulations provide guidance on which facilities qualify as a scrap or salvage yard and the recordkeeping requirements in order to qualify for the exemption. The basis and rationale for the proposed

rule are to implement Act 821 and to promote best management practices for the waste tire program in the state.

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 VII. Solid Waste
Subpart 2. Recycling**

Chapter 105. Waste Tires

§10505. Definitions

A. ...

* * *

Qualified Scrap or Salvage Yard—any facility that is required to be licensed pursuant to R.S. 32:752.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000), LR 27:829 (June 2001), LR 27:2226 (December 2001), LR 28:1953 (September 2002), LR 29:2779 (December 2003), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3158 (December 2005), LR 33:

§10519. Standards and Responsibilities of Generators of Waste Tires

A. - B. ...

C. Each tire dealer, other than qualified scrap or salvage yard tire dealers selling tires salvaged from a Louisiana-titled vehicle, doing business in the state of Louisiana shall be responsible for the collection of the \$2 waste tire fee upon the sale of each passenger/light truck tire, \$5 waste tire fee upon the sale of each medium truck tire, and \$10 waste tire fee upon the sale of each off-road tire. For recapped or retreaded tires, a waste tire fee of \$1.25 shall be collected upon the sale of each recapped or retreaded tire. *Tire dealer* includes any dealer selling tires in Louisiana, other than qualified scrap or salvage yard tire dealers selling tires salvaged from a Louisiana-titled vehicle. Qualified scrap or salvage yard tire dealers are only exempt on tires salvaged from Louisiana-titled vehicles through June 30, 2008. Any new or used tires sold by qualified scrap or salvage yard tire dealers that are not salvaged from Louisiana-titled vehicles shall have the appropriate fees collected upon the sale.

D. Each dealer of passenger/light truck tires, medium truck tires, or off-road tires shall remit all waste tire fees collected as required by LAC 33:VII.10535.B and C to the department on a monthly basis on or before the twentieth day following the month during which the fees were collected. The fees shall be remitted to the Office of Management and Finance, Financial Services Division. Each such dealer shall also submit a Monthly Waste Tire Fee Report (Form WT02, available from the Office of Management and Finance, Financial Services Division), to the Office of Management and Finance, Financial Services

Division, on or before the twentieth day of each month for the previous month's activity, including months in which no fees were collected. Each tire dealer required to make a report and remit the fee imposed by this Section shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each such dealer shall maintain a complete record of the quantity of tires sold, together with tire sales invoices, purchase invoices, inventory records, and copies of each Monthly Waste Tire Fee Report for a period of no less than three years. These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

E. - E.1. ...

2. "All Louisiana tire dealers, other than qualified scrap or salvage yard tire dealers selling tires salvaged from a Louisiana-titled vehicle, are required to collect a waste tire cleanup and recycling fee of \$2 for each passenger/light truck tire, \$5 for each medium truck tire, and \$10 for each off-road tire, upon sale of each tire. These fees shall also be collected upon replacement of all recall and adjustment tires. Tire fee categories are defined in the Waste Tire Regulations. No fee shall be collected on tires weighing more than 500 pounds or solid tires. This fee must be collected whether or not the purchaser retains the waste tires. Tire dealers must accept from the purchaser, at the time of sale, one waste tire for every tire sold, unless the purchaser elects to retain the waste tire."

3. "Qualified scrap or salvage yard tire dealers are only exempt on tires salvaged from Louisiana-titled vehicles through June 30, 2008. Any new or used tires sold by qualified scrap or salvage yard tire dealers that are not salvaged from Louisiana-titled vehicles shall have the appropriate fees collected upon the sale."

F. - N. ...

O. All tire wholesalers shall keep a record of all tire sales made in Louisiana. These records shall contain the name and address of the purchaser, the date of the purchase, the number of tires purchased, and the type and size of each tire purchased. These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

P. All generators of waste tires (e.g., new tire dealers, used tire dealers, qualified scrap or salvage yards, and recappers) shall maintain a complete record of purchase invoices, inventory records, and sales invoices for a period of no less than three years. Qualified scrap or salvage yard tire dealers shall make available to the administrative authority the register of business transactions as required by R.S. 32:757(A), and also maintain a record of the number of tires recovered from Louisiana-titled vehicles, which tires are resold. These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours. Qualified scrap or salvage yard tire dealers are only exempt on tires salvaged from Louisiana-titled vehicles through June 30, 2008. Any new or used tires sold by qualified scrap or salvage yard tire dealers that are not salvaged from Louisiana-titled vehicles shall have the appropriate fees collected upon the sale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:2227 (December 2001), LR 28:1953 (September 2002), LR 29:1818 (September 2003), LR 29:2780 (December 2003), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005), LR 33:

§10521. Standards and Responsibilities of Motor Vehicle Dealers

A. - B. ...

C. Motor vehicle dealers shall remit all waste tire fees collected as required by LAC 33:VII.10535.B and C to the department on a monthly basis on or before the twentieth day following the month during which the fees were collected. The fees shall be remitted to the Office of Management and Finance, Financial Services Division. Each such dealer shall also submit a Monthly Waste Tire Fee Report (Form WT02, available from the Office of Management and Finance, Financial Services Division) to the Office of Management and Finance, Financial Services Division, on or before the twentieth day of each month for the previous month's activity, including months in which no fees were collected. Each motor vehicle dealer is required to make a report and remit the fee imposed by this Section and shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each such dealer shall maintain a complete record of the quantity of vehicles sold, together with vehicle purchase and sales invoices, and inventory records, for a period of no less than three years. These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

D. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1324 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§10533. Manifest System

A. - C. ...

D. Completed manifests shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 27:831 (June 2001), LR 27:2228 (December 2001), LR 29:2780 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:

A public hearing will be held on November 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. Parking in the Galvez Garage is free 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 SW042. Such comments must be received no later than December 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 SW042. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations, Monthly Regulation Changes.

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: Waste Tire Fee Exemption
for Salvage Yards**

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

The cost to the department of implementing the rule as it pertains to an exemption for scrap and salvage yards is estimated to be a minimal increase in expenditure of funds that are dedicated to the Waste Tire Management Fund. The department will incur a minimal additional cost of printing and mailing notifications and signs to approximately 3,000 Louisiana registered waste tire dealers. There will be no implementation costs or savings to local governmental units.

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

The rule as it pertains to an exemption for scrap and salvage yards is estimated to result in a decrease of approximately \$2,767 to \$40,000 annually in fee collections dedicated to the Waste Tire Management Fund.

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

The rule will result in scrap and/or salvage yards recovering tires from Louisiana-titled vehicles to avoid having to collect the waste tire fee. This will result in the consumers who buy these recovered tires not having to pay the fee. There will be no direct impact on scrap and/or salvage yards selling these tires.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The regulation change will have a minimal impact on used tire dealers other than scrap or salvage yards, as scrap and/or salvage yards will be able to sell tires without the consumer having to pay the waste tire management fee.

Herman Robinson, CPM
Executive Counsel
0610#042

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Worker's Compensation Insurance
(LAC 46:XLI.531)**

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 46:XLI.531 "Worker's Compensation Insurance" to comply with Act No. 309 of 2005 requiring trainers to obtain workers' compensation insurance policies from the Louisiana Horsemen's Benevolent and Protective Association, or a waiver thereof.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLI. Horseracing Occupations

**Chapter 5. Assistant Trainers and Other Employees
§531. Worker's Compensation Insurance**

A. In addition to all other requirements for a trainer's license, each applicant therefor must furnish an individual certificate of insurance issued in his or her name only by the Louisiana Horsemen's Benevolent and Protective Association, or a waiver thereof, covering his or her employees and which names the Louisiana State Racing Commission as a certificate holder for purposes of coverage and cancellation of policy. Any exceptions to the form and content of the certificate may be considered on timely request.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:150.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 4:274 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 29:1820 (September 2003), LR 33:

Family Impact Statement

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

The domicile office of the Louisiana State Racing Commission is open from 8:30 a.m. to 5 p.m., and interested parties may contact Charles A. Gardiner III, Executive Director, or Larry Munster, Assistant Executive Director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule

through November 10, 2006, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Worker's Compensation Insurance**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Other than one-time costs directly associated with the publication of this rule there are no additional costs to the commission as a result of this action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
As a result of recent legislation, the Horsemen's Benevolent and Protective Association received the legal authority to become the self-insurer for Workers' Compensation insurance to Louisiana horsemen. As a result, Workers' Compensation premiums have dropped dramatically. It is the hope that by reducing premiums, the more lucrative stables will transplant to Louisiana to take advantage of the low insurance premiums. The attraction of additional quality horsemen may entice more wagering, thereby increasing revenue. However, the potential increase in revenue cannot be estimated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The requirement for trainers to hold worker's compensation insurance through the Louisiana Horsemen's Benevolent and Protective Association will effectively reduce compensation premiums by one-half.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Passage of this rule could affect employment positively. Trainers having lower insurance premiums could potentially afford to hire additional personnel. Also, lower premium rates would potentially attract more out-of-state trainers.

Charles A. Gardiner III
Executive Director
0610#005

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Motor Vehicle Commission**

Advertising (LAC 46:V.Chapter 7)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapter 6, the Office of the Governor, Louisiana Motor Vehicle Commission, notice is hereby given that the Louisiana Motor Vehicle Commission proposes to repeal Chapter 7 and replace it with new regulations and language to clarify the Rule, put into the Rule customary procedures of the commission to assist its licensees in designing their advertising programs.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part V. Automotive Industry

Subpart 1. Motor Vehicle Commission

Chapter 7. Advertising

§701. Advertising; Dealer Name

A. Dealers may advertise only under the name that appears on their franchise agreement and dealer license issued by the Motor Vehicle Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§703. General Prohibition

A. A person advertising motor vehicles shall not use false, deceptive, unfair, or misleading advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§705. Specific Rules

A. The violation of an advertising rule shall be considered by the commission as a prima facie violation of the Louisiana Motor Vehicle Commission Law. In addition to a violation of a specific advertising rule, any other advertising or advertising practices found by the commission to be false, deceptive, or misleading shall be deemed violations of the Louisiana Motor Vehicle Commission Law, and shall also be considered violations of the general prohibition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§707. Definitions

Abbreviations—using shortened terms for words or initials for groups of words. Commonly understood abbreviations, such as "DR", "AM/FM", "APR", "WAC", "DEMO", "EXEC", "DOC FEE", may be used. Trade industry abbreviations which are not commonly understood, such as "FTB", "A/R", "TOP", "POF", "DOC" MAY NOT be used. This rule does not contain a list of all the abbreviations one may not use.

Advertisement—an oral, written, telecommunicated, graphic, or pictorial statement made in the course of soliciting business, including, without limitation, a statement or representation made in a newspaper, magazine, or other publication, or contained in a notice, sign, poster, display, circular, pamphlet, letter, flyer, price tag, window sticker, banners, billboards, handbills, or on radio, the Internet, or via on-line computer service, or on television or any medium.

Bait Advertisement—an alluring but insincere offer to sell or lease a product of which the primary purpose is to obtain leads to persons interested in buying or leasing merchandise of the type advertised and to switch consumers from buying or leasing the advertised product in order to sell some other

product at a higher price or on a basis more advantageous to the advertiser.

Balloon Payment—any scheduled made a required by a consumer credit sale or consumer loan that is more than twice as large as the average of all prior scheduled payments except the down payment.

Buyers Guide—a form as required by the Federal Trade Commission under 16 CFR Part 455. This form is to be completed and displayed on the side window of a vehicle that has been driven more than the limited use necessary in moving or road testing a new vehicle prior to delivery to a consumer.

Clear and Conspicuous—that the statement, representation, or term being disclosed is of such size, color, contrast, and audibility and is presented so as to be readily noticed and understood. All language and terms, including abbreviations, shall be used in accordance with their common or ordinary usage and meaning by the general public. This standard may be met by the following.

1. In all printed media, where terms, conditions or disclaimers are used, they shall be clearly and conspicuously visible and printed in not less than 8-point type print or printed in 6-point upper case type print. When billboards, portable signs, posters, etc., are used, all terms, conditions or disclaimers shall be displayed and phrased in a manner which is clear and conspicuous.

a. All required ad disclosures should be adjacent to the advertised vehicle being depicted.

b. Asterisks (*) may not be used with disclosures located elsewhere in the advertisement.

c. It is an unfair or deceptive act to use, in any advertising, one or more footnotes or asterisks which, alone or in combination, confuse, contradict, materially modify or unreasonably limit the material terms of an advertisement.

2. In an audio advertisement:

a. the statement is made orally and is clear and understandable and the same in pace and volume as remainder of the advertisement;

b. the disclosure shall be placed at the end of the advertisement.

3. In a television advertisement:

a. the disclosure shall be in visual form so that the average viewer can easily read and understand it;

b. the disclosure size shall be at least 20 scan lines and each disclosure shall appear continuously on the screen for at least 10 seconds.

Dealership Addendum—a form which is to be displayed on a window of a motor vehicle when the dealership installs special features, equipment, parts or accessories, or charges for services not already compensated by the manufacturer or distributor for work required to prepare a vehicle for delivery to a buyer.

1. The addendum is to disclose:

a. that it is supplemental;

b. any added feature, service, equipment, part, or accessory charged and added by the dealership and the retail price therefore;

c. any additional charge to the selling price such as additional dealership markup; and

d. the total dealer selling price.

2. The dealership addendum form shall not be deceptively similar in appearance to the manufacturer's

label, which is required to be affixed by every manufacturer to the windshield or side window of each new motor vehicle under the Automobile Information Disclosure Act.

Demonstrator—a new motor vehicle that is currently in the inventory of the automobile dealership and used or has been used primarily for test drives by customers and other dealership purposes and so designated by the dealership. Demonstrators may be advertised for sale as such only by an authorized dealer in the same make of motor vehicle.

Disclaimer—those words or phrases used to provide a clear understanding of any advertised statement, but not used to contradict or change the meaning of the statement.

Disclosure—required information that is clear, conspicuous, and accurate and shall be in the immediate proximity of the year, make and model offered in the advertisement.

Factory Executive/Official Vehicle—a new motor vehicle that has been used exclusively by an executive or official of the dealer's franchising manufacturer, distributor or their subsidiaries.

Identification—

1. When any price of a vehicle is advertised, the following must be disclosed:

a. model year;

b. make and model number;

c. trade, brand or style name;

d. vehicle must be identified as a new, used, demonstrator, or a factory executive/official, or a factory program vehicle; and

e. when an illustration of a motor vehicle is used in an advertisement, it must be that of the motor vehicle advertised.

Internet—a system that connects computers or computer network.

Licensee—any person required to obtain a license from the Louisiana Motor Vehicle Commission.

Manufacturer's Label—the label required by the Automobile Information Disclosure Act, 15 U.S.C. 1231-1233, to be affixed by the manufacturer to the windshield or side window of each new automobile delivered to the dealer.

Program—a vehicle that is purchased at a manufacturer's closed auction or sold by or directly from the manufacturer or distributor which is current or previous year model, that has been previously tagged and/or titled, and returned to the manufacturer for disposal.

Rebate or Cash Back—a sum of money refunded to a purchaser or for the benefit of the purchaser after full payment has been rendered. The purchaser may choose to reduce the amount of the purchase price by the sum of money or the purchaser may opt for the money to be returned to himself or for his benefit subsequent to payment in full.

§709. Availability of Vehicles

A. A licensee may advertise a specific vehicle or line-make of vehicles for sale if:

1. the specific vehicle or line is in the possession of the licensee at the time the advertisement is placed, or the vehicle may be obtained from the manufacturer or distributor or some other source, and this information is clearly and conspicuously disclosed in the advertisement; and

2. the price advertisement sets forth the number of vehicles available at the time the advertisement is placed or a dealer can show he has available a reasonable expectable public demand based on prior experience. In addition, if an advertisement pertains to only one specific vehicle, then the advertisement must also disclose the vehicle's stock number or vehicle identification number.

B. Motor vehicle dealers may advertise a specific used vehicle or vehicles for sale if:

1. the specific used vehicle or vehicles is in the possession of the dealer at the time the advertisement is placed; and

2. the title certificate to the used vehicle has been assigned to the dealer.

C. This Section does not prohibit general advertising of vehicles by a manufacturer, dealer advertising association, or distributor and the inclusion of the names and addresses of the dealers selling such vehicles in the particular area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§711. Accuracy

A. All advertised statements shall be accurate, clear and conspicuous.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§713. Untrue Claims

A. The following statements are prohibited:

1. statements such as "write your own deal", "name your own price", "name your own monthly payments", "appraise your own motor vehicle" or statements with similar meaning;

2.a. statements such as "everybody financed", "no credit rejected", "we finance anyone", "guaranteed approval", and other similar statements representing or implying that no prospective credit purchaser will be rejected because of his inability to qualify for credit;

b. statements such as "all credit applications accepted", or terms with similar meaning are deemed deceptive and shall not be used;

3. statements representing that no other person grants greater allowances for trade-ins, however stated, unless such is the case;

4. statements representing that because of its large sales volume a person is able to purchase vehicles for less than another person selling the same make of vehicles. Statements such as "big volume buying power," "manufacturer's outlet," "factory authorized outlet," and "factory wholesale outlet," shall not be used. Any term that gives the consumer the impression the dealer has a special arrangement with the manufacturer or distributor as compared to similarly situated dealers, is misleading and shall not be used;

5. "Double Rebates," "Triple Rebates" or any other amount of rebates that are not truly offered by the manufacturer are prohibited;

6. specific claims or discount offers shall not be used in connection with any motor vehicle other than new or a demonstrator and then only to show the difference between the dealer's own current selling price and the bona fide

manufacturer's suggested list price, if an automobile, or manufacturer's suggested retail price, if a truck. Full explanation must be given, as for example, "Save or discount \$ from manufacturer's list/retail price." Such statements as "Up To," "As Much As," "From"- "To," etc., shall not be used in connection with savings claims;

7. any claims such as "First", "Largest" and/or "Biggest" may be advertised only when the licensee is the "First", "Largest" and/or "Biggest" in retail sales for a calendar year. The claim of "First", "Largest" and/or "Biggest" must be qualified as to validity (using valid source data) and the time period of the claim with all qualifying language to be in the same size print as the claim. Additionally, the advertisement of the claim may only be utilized for the following calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§715. Layout

A. The layout, headlines, illustrations, or type size of a printed advertisement and the broadcast words or pictures of radio/TV advertisements shall not convey or permit an erroneous or misleading impression as to which vehicle or vehicles are offered for sale or lease at featured prices. No advertised offer, expression, or display of price, terms, down payment, trade-in allowance, cash difference, savings, or other such material terms shall be misleading and any necessary qualification shall be clearly, conspicuously, and accurately set forth to prevent misunderstanding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§717. Manufacturer's Suggested Retail Price

A. The suggested retail price of a new motor vehicle when advertised by a manufacturer or distributor shall include all costs and charges for the vehicle advertised, except that destination and dealer preparation charges, state and local taxes, title, and license fees may be excluded from such price, provided that the advertisement clearly and conspicuously states that such costs and charges are excluded. With respect to advertisements placed with local media in Louisiana by a manufacturer or distributor which includes the names of the local dealers of the vehicles advertised, if the price of a vehicle is stated in the advertisement, such price must include all costs and charges for the vehicle advertised, including destination and dealer preparation charges and may exclude only state and local taxes, license, and title fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§719. Dealer Price Advertising

A. The featured price of a new or used motor vehicle, when advertised, must be the full cash price for which the vehicle will be sold to any and all members of the buying public. The only charges that may be excluded from the advertised price are:

1. state and local taxes;
2. license;
3. title; and

4. notarial fees, convenience fees and documentary fees.

B. A qualification may not be used when advertising the price of a vehicle such as "with trade", "with acceptable trade", "with dealer-arranged financing", "rebate assigned to dealer" or "with down payment".

C. If a price advertisement discloses a rebate, cash back, discount savings claim, or other incentive, the full cash price of the vehicle must be disclosed as well as the price of the vehicle after deducting the incentive. The following is an acceptable format for advertising a price with rebates and other deductions:

| | |
|-------------------------|---------|
| Mfg. Sugg. Retail Price | \$9,995 |
| less rebate | \$ 500 |
| less dealer discount | \$ 500 |
| Sale Price | \$8,995 |

D. In the event that the manufacturer offers a discount on a package of options then that discount should be disclosed above or prior to the Manufacturer's Suggested Retail Price in the example in Subsection C with a total price of the vehicle before option discounts. The following is an acceptable format:

| | |
|----------------------------|----------|
| Total Vehicle Plus Options | \$10,995 |
| Option Package Discount | \$ 1,000 |
| Mfg. Sugg. Retail Price | \$ 9,995 |
| less rebate | \$ 500 |
| less dealer discount | \$ 500 |
| Sale Price | \$ 8,995 |

E. If a rebate is only available to a selected portion of the public and not the public as a whole, the price should be disclosed as in Subsection C first and then the nature of the limitation and the amount of the limited rebate may be disclosed. The following is an acceptable format:

| | |
|--|---------|
| Mfg. Sugg. Retail Price | \$9,995 |
| less rebate | \$ 500 |
| less dealer discount | \$ 500 |
| Sale Price | \$8,995 |
| FIRST TIME BUYER'S RECEIVE ADDITIONAL \$500 OFF | |

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§721. Identification

A. When the price of a vehicle is advertised, the following must be disclosed:

1. model year;
2. make;
3. model line and style or model designation; and
4. whether the vehicle is a used, demonstrator, or a factory executive/official vehicle.

B. Expressions such as "fully equipped", "factory equipped", "loaded", and other such terms shall not be used in any advertisement that contains the price of a vehicle unless the optional equipment of the vehicle is listed in the advertisement.

C. An illustration of a motor vehicle used in an advertisement must be substantially the same as that of the motor vehicle advertised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§723. Advertising at Cost or Invoice

A. No advertisement shall be run which uses the term or terms "invoice"; "cost"; "percent over/under cost, invoice or profit"; "\$\$\$ over/under cost, invoice or profit".

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§725. Trade-In Allowances

A. No guaranteed trade-in amount or range of amounts shall be featured in advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§727. Used Vehicles

A. A used vehicle shall not be advertised in any manner that creates the impression that it is new. A used vehicle shall be identified as either "used" or "pre-owned". Terms such as Program Car, Special Purchase, Factory Repurchase or other similar terms are not sufficient to designate a vehicle as used, and these vehicles must be identified as "used" or "pre-owned".

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§729. Demonstrators, Factory Executive/Official Vehicles

A. If a demonstrator or factory executive/official vehicle is advertised, the advertisement must clearly and conspicuously identify the vehicle as a demonstrator or factory executive/official vehicle. A demonstrator or factory executive/official vehicle may be sold only by a dealer franchised and licensed to sell that line-make of new motor vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§731. Auction

A. Terms such as "auction" or "auction special" and other terms of similar import shall be used only in connection with a vehicle offered or sold at a bona fide auction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§733. Free Offers

A. No merchandise or enticement may be described as "free" if the vehicle can be purchased or leased for a lesser price without the merchandise or enticement of if the price of the vehicle has been increased to cover the cost or any part of the cost of the merchandise or enticement. The advertisement shall clearly and conspicuously disclose the conditions under which the "free" offer may be obtained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§735. Cash Offers

A. Any cash offer funded by the dealer shall not be used and is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§737. Authorized Dealer

A. The term "authorized dealer" or a similar term shall not be used unless the advertising dealer holds both a franchise and a Louisiana Motor Vehicle Commission license to sell those vehicles he is holding himself out as "authorized" to sell.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§739. Manufacturer and Distributor Rebates

A. It is unlawful for a manufacturer or distributor to advertise any offer of a rebate, refund, discount, or other financial inducement or incentive, which is either payable to or for the benefit of the purchaser or which reduces the amount to be paid for the vehicle, whether the amount is the vehicle purchase price, the interest or finance charge expense, or any other cost accruing to the purchaser if any portion of such rebate, refund, discount, or other financial incentive or inducement is paid or financed or in any manner contributed to by the dealer selling the vehicle, unless the advertisement discloses that the dealer's contribution may affect the final negotiated price of the vehicle. With respect to interest or finance charge expense programs, an advertisement shall disclose that participating dealers contribute to the reduction of the financing rate and that the dealer's contribution may affect the final negotiated price of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§741. Rebate and Financing Rate Advertising by Dealers

A. It is unlawful for a dealer to advertise an offer of a manufacturer's or distributor's rebate, discount, or other financial inducement or incentive if the dealer contributes to the manufacturer's or distributor's program unless such advertising discloses that the dealer's contribution may affect the final negotiated price of the vehicle. With respect to interest or finance charge expense programs, if a participating dealer contributes to the reduction of a financing rate, then a disclosure must state that the dealer's contribution may affect the final negotiated price of the vehicle.

B. An advertisement containing an offer of an interest or finance charge incentive that is paid for or financed by the dealer rather than the manufacturer or distributor, shall disclose that the dealer pays for or finances the interest or finance charge rate reduction, the amount of the dealer's contribution in either a dollar or percentage amount, and that such arrangement may affect the final negotiated price of the vehicle.

C. An offer to pay, promise to pay or tender cash to a buyer of a motor vehicle as in a rebate or cash back program may not be advertised, unless it is offered and paid by the motor vehicle manufacturer or distributor directly to the retail purchaser or assignee of the retail purchaser and unless the advertisement sets forth the disclosures required by the this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§743. Lease Advertisements

A. Vehicle lease advertisements shall clearly and conspicuously disclose that the advertisement is for the lease of a vehicle. Statements such as "alternative financing plan", "drive away for \$_____ per month", or other terms or phrases that do not use the term "lease", do not constitute adequate disclosure of a lease. Lease advertisements shall not contain the phrase "no down payment" or words of similar import if any outlay of money is required to be paid by the customer to lease the vehicle. Lease terms that are not available to the general public shall not be included in advertisements directed at the general public, or all limitations and qualifications applicable to the lease terms advertised shall be clearly and conspicuously disclosed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§745. Manufacturer Sales; Wholesale Prices

A. New vehicles shall not be advertised for sale in any manner that creates the impression that they are being offered for sale by the manufacturer or distributor of the vehicles. Advertisements by persons shall not contain terms such as "factory sale", "fleet prices", "wholesale prices", "factory approved", "factory sponsored", or any other similar terms which indicate sales other than retail sales from the dealer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§747. Savings Claims; Discounts

A. A savings claim or discount offer is prohibited except to advertise a new or demonstrator vehicle, and the advertisement must show the difference between the dealer's selling price and the manufacturer's, distributor's, or converter's total suggested list or retail price.

B. The featured savings claim or discount offer for a new motor vehicle, when advertised, must be the savings claim or discount which is available to any and all members of the buying public.

C. If a dealer has added an option obtained from the manufacturer or distributor of the motor vehicle on which it is installed and disclosed the option and factory suggested retail price of the option on a dealership addendum sticker prior to offering the vehicle for sale at retail, the dealer may advertise a savings claim on that vehicle as long as the difference is shown between the dealer's selling price and the total selling price as disclosed on the dealership addendum sticker and discloses the factory-available options added in the advertisement. If an option that is added by a dealer is not a factory-available option, a savings claim may not be advertised on that vehicle.

D. Statements such as "up to", "as much as", "from", shall not be used in connection with savings or discount claims.

E. No person may advertise a savings claim or discount offer on used motor vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§749. Sales Payment Disclosures

A. An advertisement that contains any one of the following messages, statements, or terms:

1. the amount of a down payment, in either a percentage or dollar amount;
2. the amount of any payment, in either a percentage of dollar amount;
3. the number of payments;
4. the period of repayment; or
5. the amount of any finance charge;

B. Must include the following:

1. the amount or percentage of the down payment;
2. the terms of repayment (the number of months to make repayment and the amount per month) including the amount and due date of any balloon payment;
3. the annual percentage rate or APR; and
4. the amount of annual percentage rate, if increased, after consummation of the credit transaction.

C. An advertisement which complies with the Federal Truth-In-Leading Act (15 U.S.C. §160 et seq.) and amendments thereto, and any regulations issued or which may be issued thereunder, shall be deemed in compliance with the provisions of this Section. Any advertisement not in compliance with these federal provisions constitutes violation(s) of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§751. Payment Disclosure—Lease

A. An advertisement that promotes a consumer lease and contains any of the following messages, statements, or terms:

1. the amount of any payment; or
2. a statement of any capitalized cost reduction or other payment required prior to or by delivery, if delivery occurs after consummation, must clearly and conspicuously include the following:
 - a. that the transaction advertised is a lease;
 - b. the total amount due prior to or at consummation or by delivery, if delivery occurs after consummation;
 - c. the number, amounts, and due dates or periods of scheduled payments under the lease;
 - d. a statement of whether or not a security deposit is required; and
 - e. a statement that an extra charge may be imposed at the end of the lease term where the lessee's liability, if any, is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

B. Except for a periodic payment, a reference to a charge as described in this Section, to components of the total due at lease signing or delivery, cannot be more prominently advertised than the disclosure of the total amount due at lease signing or delivery.

C. If a percentage rate is advertised, that rate shall not be more prominent than any of the following disclosures stated in the advertisement, with the exception of Paragraph (19) of this Subsection, the notice required to accompany the rate:

1. description of payments;
2. amount due at lease signing or delivery;
3. payment schedule and total amount of periodic payments;
4. other itemized charges that are not included in the periodic payment. These charges include the amount of any liability that lease imposes upon the lessee at the end of the lease term;
5. total of payments;
6. payment calculation:
 - a. gross capitalized cost;
 - b. capitalized cost reduction;
 - c. adjusted capitalized cost;
 - d. residual value;
 - e. depreciation and any amortized amounts;
 - f. rent charge;
 - g. total of base periodic payments;
 - h. lease term;
 - i. base periodic payment;
 - j. itemization of other charges that are a part of the periodic payment;
 - k. total periodic payment;
 - l. early termination conditions and disclosure of charges;
 - m. maintenance responsibilities;
 - n. purchase option;
 - o. statement referencing nonsegregated disclosures;
 - p. liability between residual and realized values;
 - q. right of appraisal;
 - r. liability at the end of the lease term based on residual value;
 - s. fees and taxes;
 - t. insurance;
 - u. warranties or guarantees;
 - v. penalties and other charges for delinquency;
 - w. security interest;
 - x. limitations on rate information.

D. If a lessor provides a percentage rate in an advertisement, a notice stating that "this percentage may not measure the overall cost of financing this lease" shall accompany the rate disclosure. The lessor shall not use the term "annual percentage rate", "annual lease rate", or any equivalent term.

E. A multi-page advertisement that provides a table or schedule of the required disclosures is considered a single advertisement if, for lease terms that appear without all of the required disclosures, the advertisement refers to the page or pages on which the table or schedule appears.

F. A merchandise tag stating any item listed in Paragraphs A.1 or 2, must comply with the disclosures in Subparagraphs A.2.a-e of this Section by referring to a sign or display prominently posted in the lessor's place of business that contains a table or schedule of the required disclosures.

G. An advertisement made through television or radio stating any item listed in Paragraphs A.1 or 2, must state in the advertisement:

1. that the transaction advertised is a lease;
2. the total amount due prior to or at consummation or by delivery, if delivery occurs after consummation;
3. the number, amounts and due dates or periods of scheduled payments under the lease; and

4. either:

a. a toll-free number along with a reference that such number may be used by consumers to obtain the information in Subparagraphs A.2.a-e of this Section. The toll-free telephone number shall be available for no fewer than 10 days, beginning on the date of the broadcast and the lessor shall provide the information in Subparagraphs A.2.a-e of this Section orally or in writing upon request; or

b. direct the consumer to a written advertisement in a publication of general circulation in the community served by the media station, including the name and the date of the publication, with a statement that the required disclosures in Subparagraphs A.2.a-e of this Section are included in the advertisement. The written advertisement shall be published beginning at least three days before and ending at least 10 days after the broadcast.

H. An advertisement which complies with the Consumer Leasing Act of 1976 (15 U.S.C. §1601 et seq.) and amendments thereto, and any regulations issued or which maybe issued thereunder, shall be deemed in compliance with the provisions of this Section. Any advertisement not in compliance with these federal provisions constitutes violation(s) of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§753. Bait Advertisement

A. "Bait" advertisement shall not be used by any person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§755. Lowest Price Claims

A. Representing a lowest price claim, best price claim, best deal claim, or other similar superlative claim shall not be used in advertising.

B. A person may not advertise a "meet or beat" guarantee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§757. Fleet Prices

A. Terms such as "fleet prices", "fleet sales", "suppliers prices", or other terms implying that retail individual customers will be afforded the same price and/or discount as multi-purchase commercial businesses shall not be used in advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§759. Bankruptcy/Liquidation Sale

A. No licensee may willfully misrepresent the ownership of a business for the purpose of holding a liquidation sale, auction sale, or other sale which represents that the business is going out-of-business. A person who advertises a liquidation sale, auction sale, or going out-of-business sale shall state the correct name and permanent address of the owner of the business in the advertisement. A person may not conduct a sale advertised with the phrase "going out-of-

business", "closing out", "shutting doors forever", "bankruptcy sale", "foreclosure", or "bankruptcy", or similar phrases or words indicating that an enterprise is ceasing business unless the business is closing its operations and follows the procedures required by Chapter 1, Part II, Title 51, Trade and Commerce, Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§761. Gas Mileage Claims

A. Advertising which includes a gas mileage claim, i.e., a certain miles-per-gallon claim must be properly qualified as to the source of information and authenticity of the claim. Such advertisement should include, but not be limited to, a clear statement as to whether the claimed miles-per-gallon can be expected to be attained under normal or usual driving conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The proposed Rule should have a positive effect 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? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will have no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will not affect the family earnings or family budget.

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

6. What effect will this have on the ability of the family or local government to perform the function as contained in this proposed Rule? This Rule is designed to help the family to obtain the information and help needed to own their own automobile.

Any person may submit data, views or positions, orally or in writing to the Louisiana Motor Vehicle Commission, 3519 12th Street, Metairie, LA 70002, or by telephone at 504-838-5207, and facsimile 504-838-5416.

Lessie House
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Advertising

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

The revision and simplification of existing rules will not have any impact on expenditures for state or local governmental units as policies which have been standard

practice for many years have been incorporated into the administrative rules.

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

Implementation of the proposed rule will not effect revenue collections of state and local governmental units.

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

It is estimated that implementation of the proposed rules will have little or no effect on directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of this proposal.

Lessie House
Executive Director
0610#019

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Embalmers and Funeral Directors

Identification on Caskets
(LAC 46:XXXVII.1109)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 37:840, notice is hereby given that the Department of Health and Hospitals, Board of Embalmers and Funeral Directors intends to add a provision to Chapter 11, Funeral Establishments. The board finds it necessary to add this provision to provide identification on caskets.

This proposed Rule will assist families in their time of need should human remains be displaced from their final resting place and need to be identified.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXVII. Embalmers and Funeral Directors

Chapter 11. Funeral Establishments

§1109. Identification on Caskets

A. In compliance with the directives and the mandates as set forth within R.S. 37:853, and considering that various casket manufacturers have thoroughly researched and developed a methodology to properly preserve and display information concerning the identification of the human remains contained within their casket, all licensed funeral directors and/or embalmers and all licensed funeral establishment shall, in order to assist in the identification of caskets and/or the identification of human remains, utilize the recommendations of the individual casket manufacturer whose casket is used as the container into which the human remains are placed, in preserving and displaying the mandated information regarding the name of the decedent, their date of death, and the funeral home involved in the service.

B. Should the casket manufacturer of the product used in the service not have a recommendation for a methodology to properly preserve and display the necessary information concerning the identification of human remains, then the licensed funeral directors and/or embalmers and licensed funeral establishments shall utilize any one of the products recommended by the casket manufacturers who have in fact researched and developed a proper system or methodology to properly preserve and display the mandated information concerning human remains, or alternative use a methodology submitted to and approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:853.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 33:

Interested persons may submit written comments to Dawn Scardino, Executive Director, Louisiana State Board of Embalmers and Funeral Directors, P. O. Box 8757, Metairie, LA 70011-8757. Written comments must be submitted to and received by the board within 30 days of this notice. A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Dawn Scardino
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Identification on Caskets

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

During fiscal year 06/07 the board will spend approximately \$700 notifying the licensed funeral establishments of this new rule. This amount includes cost of publication in the *Louisiana Register*, and the printing and mailing of the rule to each funeral establishment. The board has sufficient self-generated funds available to implement this 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 agencies.

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

Pursuant to Act 330 of the 2006 Regular Session, implementation of this rule may cost the funeral establishments (approximately 411) \$.60 to \$1.00 per case to utilize identification products recommended by casket manufacturers. This small cost will be absorbed by many establishments. However, the cost of the basic service fee charged by funeral establishments may increase.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment.

Dawn Scardino
Executive Director
0610#076

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Practical Nurse Examiners

Temporary Permits (LAC 46:XLVII.1705)

The Board of Practical Nurse Examiners, proposes to amend LAC 46:XLVII.101 et seq., in accordance with the provisions of the Administrative Procedure Act, R.S. 950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

The purpose of the proposed Rule change is to update, clarify and provide specificity to the language that allows for temporary permits to be issued to graduates of board approved or accredited practical nursing programs in Louisiana. Language has been added to provide for the expiration of temporary permits issued to applicants for licensure by examination. Language related to the examination closing date is no longer applicable and has been deleted. In addition, the proposed Rule change allows the board to increase the length of time (from 8 weeks to 12 weeks) a temporary permit is valid when said permit is issued to applicants for licensure by endorsement and provides for the board to extend the permit on a case-by-case basis. The increase in the valid time length and the ability for the board to extend the permit are proposed in order to allow the state and federal agencies conducting criminal background checks sufficient time for fingerprint processing and reporting. Furthermore, the proposed Rule change provides for emergency temporary permits to be issued by the board during a declared state of public health emergency; provides for temporary permits to be issued to a practical nurse providing care to a client being transported into, out of or through the state of Louisiana; and provides for temporary permits to be issued to previously licensed practical nurses currently enrolled in a board approved refresher course.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 1. Practical Nurses

Chapter 17. Licensure

§1705. Temporary Permit

A. A temporary permit to practice as a practical nurse in Louisiana may be issued to graduates of board approved or accredited practical nursing programs in Louisiana as follows.

1. The application for licensure by examination must be completed and submitted with the appropriate fees, and said application must be reviewed and approved by the board.

2. An official transcript must be submitted by the educational institution from which the applicant graduated, and said transcript must be reviewed and approved by the board.

3. If a temporary permit is granted, that permit shall expire on one of the following three dates, whichever comes first:

- a. eight weeks from the date of issue;
- b. the date of full licensure; or
- c. upon receipt of a score of fail on the licensure examination.

4. The temporary permit shall not be subject to extension or renewal under any circumstances, including reentry and completion of a program in practical nursing.

5. The abbreviation P.N. (T.P.), (Practical Nurse, temporary permit), shall be used with the signature of the applicant on all documents requiring said signature in the course of practice while the temporary permit is valid.

6. The P.N. (T.P.) shall serve only in a staff-nurse position.

7. The P.N. (T.P.) shall assume only those duties and functions commonly included in the staff-nurse position.

8. The P.N. (T.P.) shall practice only in nursing situations in which a registered nurse or physician is providing direct supervision.

B. A temporary permit may be issued to licensees pending disciplinary action at time of license renewal.

C. A 12 week temporary permit may be issued to applicants for licensure by endorsement upon receipt of all of the following: verification of current licensure, in good standing, from another state or U.S. territory; a notarized sworn statement, by the applicant, that the applicant meets the requirements for licensure in this state and has a negative history for criminal activity, a negative history for chemical dependency, and a negative history for complaints against and/or related to any and all licenses held for any profession in any state or U.S. territory; the required fee; and confirmation that required fees and forms have been submitted to the appropriate state and/or federal agencies for the processing of the applicant's criminal history record. The temporary permit shall be immediately revoked upon receipt of information indicating that the applicant may not qualify for licensure. A temporary permit issued to applicants for licensure by endorsement may be extended on a case-by-case basis but may not be reissued to any person, under any circumstances, including reapplication for licensure by endorsement.

D. During a declared state of public health emergency, an emergency temporary permit may be issued to practical nurses licensed in another jurisdiction of the U.S. whose license is current, unrestricted and in good standing in such jurisdiction, provided that the practical nurse register with the board prior to providing practical nursing care. The emergency permit may be issued for 60 days or until termination of the state of public health emergency, whichever comes first. The permit may be extended for two additional 60 day periods. Only gratuitous services may be provided by practical nurses who are working on an emergency temporary permit.

E. A temporary permit may be issued to practical nurses licensed in another jurisdiction of the U.S. whose license is current, unrestricted and in good standing in such jurisdiction for a period not to exceed 14 days when the practical nurse is providing care to a client being transported into, out of or through the state.

F. A temporary permit may be issued to practical nurses enrolled in board approved refresher courses provided the practical nurse has been previously licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:341 (April 1984), amended by the Department of Health and Hospitals, Board of Practical

Nurse Examiners, LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 28:2355 (November 2002), LR 32:637 (April 2006), LR 33:

Family Impact Statement

The proposed amendments, to Rule XLVII.Subpart 1, should not have any impact on family as defined by R.S. 49:972. There should not be any effect on: the stability of the family, the authority and rights of parents regarding the education and supervision of their children, the functioning of the family, family earnings and family budget, the behavior and personal responsibility of children, and/or the ability of the family or local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments until 3:30 p.m., November 10, 2006, to Claire Doody Glaviano, Board of Practical Nurse Examiners, 3421 N. Causeway, Ste. 505, Metairie, LA 70002.

Claire Doody Glaviano, MN, APRN
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Temporary Permits

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

Other than the rule publication costs, which are estimated to be \$200.00 in fiscal year 2007, it is not anticipated that the proposed rule amendments will result in any material costs or savings to the Board of Practical Nurse Examiners, any state unit or local governmental unit.

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

The proposed rule will have no effect on revenue collections of state or local governmental units.

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

The proposed rule will have no significant effect on costs and/or economic benefits to directly affected persons, or nongovernmental groups. The proposed rule change updates, clarifies and provides specificity to existing language that allows for temporary permits to be issued to applicants (approximately 1,000 per year) for licensure by examination. The proposed rule change also allows the board to increase the length of time (from eight weeks to 12 weeks) a temporary permit is valid when issued to applicants (approximately 200 per year) for licensure by endorsement. This increase will allow the state and federal agencies conducting criminal background checks sufficient time for fingerprint processing and reporting. Furthermore, the proposed rule change provides for emergency temporary permits to be issued by the board during a declared state of public health emergency; provides for temporary permits to be issued to a practical nurse providing care to a client being transported into, out of or through the state of Louisiana; and provides for temporary permits to be issued to previously licensed practical nurses currently enrolled in a board approved refresher course.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Claire Doody Glaviano, RN, MN
Executive Director
0610#003

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Tuberculosis Control Program—Health Examinations
of Employees, Volunteers and Patients at Day Care
Centers and Residential Facilities
(LAC 51:II.503 and 505)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, and based on the amendment and reenactment of R.S. 40:1156, intends to amend LAC 51:II.Chapter 5, specifically §503, Mandatory Tuberculosis Testing and §505, Required Medical Examinations of All Persons Admitted to Nursing Homes and Residential Facilities.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part II. The Control of Diseases

Chapter 5. Health Examinations for Employees, Volunteers and Patients at Certain Medical and Residential Facilities

§503. Mandatory Tuberculosis Testing

A. [Formerly paragraph 2:022] All persons prior to or at the time of employment at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Public Health and Hospitals, Office of Public Health out-patient health care facility or any person prior to or at the time of commencing volunteer work involving direct patient care at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Public Health and Hospitals, Office of Public Health out-patient health care facility shall be free of tuberculosis in a communicable state as evidenced by either:

1. a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration;

2. a normal chest X-ray, if the skin test or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; is positive; or

3. a statement from a licensed physician certifying that the individual is non-infectious if the X-ray is other than normal. The individual shall not be denied access to work solely on the basis of being infected with tuberculosis, provided the infection is not communicable.

B. [Formerly paragraph 2:023] Any employee or volunteer at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Public Health and Hospitals, Office of Public Health out-patient health care facility who has a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a positive

blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; or a chest X-ray other than normal, in order to remain employed or continue work as a volunteer, shall complete an adequate course of chemotherapy for tuberculosis as prescribed by a Louisiana licensed physician, or shall present a signed statement from a Louisiana licensed physician stating that chemotherapy is not indicated.

C. [Formerly paragraph 2:024] Any employee or volunteer at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Public Health and Hospitals, Office of Public Health outpatient health care facility who has a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a negative result of a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; in order to remain employed or continue work as a volunteer, shall be re-tested annually as long as the purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; remains negative. Any employee converting from a negative to a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; shall be referred to a physician and followed as indicated in §503. B.

D. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of Louisiana Revised Statutes 40:4(A)(2) and Revised Statutes 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1220 (June 2002), amended LR 32:98 (January 2006), LR 33:

§505. Required Medical Examinations of All Persons Admitted to Nursing Homes and Residential Facilities [formerly paragraph 2:026]

A. Any person (adult or child) admitted to any nursing home or other residential facility shall have a complete history and physical examination by a licensed physician within 30 days prior to or 48 hours after admission, except that any resident who has complied with this provision shall be exempt from re-examination if transferred to another residential facility provided the record of examination is transferred to the new facility. This examination shall include laboratory tests as indicated by the history and physical examination. A purified protein derivative intradermal skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration, shall be given to all residents under 35 years of age and a purified protein derivative skin, test for tuberculosis, five tuberculin unit strength, given by the Mantoux method or a blood assay for *Mycobacterium tuberculosis*, approved by the United States Food and Drug Administration, plus a chest X-ray to all residents over 35 years of age, no more than 30 days prior to admission to any nursing home or other residential facility. If the skin test or a blood assay for *Mycobacterium tuberculosis* approved by the

United States Food and Drug Administration is not done prior to admission, it may be done within 72 hours after admission and interpreted at the appropriate time. A repeat skin test or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration, is not required if the patient has a chest X-ray with no abnormalities indicative of tuberculosis and has had a negative skin test or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration, documented within one year of admission or if the patient has a previously documented positive skin test or a positive result of a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration. A record of the admission history, physical examination, purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration, chest X-ray, and any other laboratory tests shall be a part of the permanent record of each resident. No resident with evidence of active tuberculosis shall be admitted unless the examining physician states that the resident is on an effective drug regimen, is responding to treatment, and presents no imminent danger to other patients or employees, or unless the facility has, been specifically cleared by the Office of Public Health and the Department of Health and Hospitals to house patients with active tuberculosis.

B. [Formerly paragraph 2:026-1] Any resident who is a case or an asymptomatic carrier of a communicable disease which may pose a serious risk to other patients or employees shall not be admitted except under the supervision of the state health officer or his agent.

C. [Formerly paragraph 2:027] When a suspicious case or carrier of a communicable disease poses a serious public health risk, appropriate measures shall be taken to prevent the disease from spreading to other residents.

D. [Formerly paragraph 2:028] Any child under 18 years of age in any residential facility in the state shall have an annual examination by a licensed physician to determine the child's physical condition, mental condition and the presence of any indication of hereditary or other constitutional disease. Any deformity or abnormal condition found upon examination shall be entered by the physician on the medical record of the child.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1220 (June 2002), amended LR 32:

Family Impact Statement

1. The Effect on the Stability of the Family. This proposed Rule will enhance the stability of the family in providing for early detection of infection with tuberculosis and early treatment of the employees, volunteers and patients at Day Care Centers and Residential Facilities to minimize the untoward health effects of this contagious disease in all persons referenced above and to members of their families.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. It is envisioned that this proposed Rule will have no effect

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

3. The Effect on the Functioning of the Family. This proposed Rule will enhance the functioning of the family in providing for early detection of infection with tuberculosis and early treatment of the of the employees, volunteers and patients at Day Care Centers and Residential Facilities to minimize the untoward health effects of this contagious disease in all persons referenced above and to members of their families.

4. The Effect on the Family Earnings and Family Budget. Early treatment of tuberculosis is done as much as possible on an out-patient basis for people not unduly ill with the chronic disease tuberculosis. This requires minimal time spent away from work and/or home. Clinic visits and drugs are provided at no charge to the patient by the Department of Health and Hospitals Office of Public Health. Patients seeking care privately will generally have their health care covered by health insurance. Those persons seeking care at a state-run hospital out-patient clinic will also receive their care free or at reduced fees. The cost of a blood assay for *Mycobacterium tuberculosis* is comparable to that of the traditional tuberculin skin test. Therefore the effect on family earnings and family budget is estimated to be zero or negligible.

5. The Effect on the Behavior and Personal Responsibility of Children. It is the opinion of the tuberculosis control program staff that this proposed Rule will no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. The blood assay for *Mycobacterium tuberculosis* will not be offered by the Public Health Laboratories of the Louisiana Department of Health and Hospitals Office of Public Health. The family has been shown to be able to cooperate with the functions called for in this proposed rule by compliance with existing requirements for mandatory tuberculosis testing, i.e., the tuberculin skin test, and it is anticipated that the same compliance will be exhibited by those who choose to have the blood assay for *Mycobacterium tuberculosis* instead of the skin test. The proposed Rule does not pose any responsibility nor additional costs upon local government.

All interested persons are invited to submit written comments on the proposed regulation. Persons may submit written comments no later than November 9, 2006 by 4:30 p.m., to Dr. Louis D. Trachtman, Medical Director of the Office of Public Health, 1010 Common Suite-1136 New Orleans, LA 70112.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tuberculosis Control Program Health Examinations of Employees, Volunteers and Patients at Day Care Centers and Residential Facilities

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

The proposed rule will allow for the use of a blood assay for the presence of *Mycobacterium tuberculosis* as well the

traditional tuberculin skin test for persons required to be tested for tuberculosis. The blood assay for *Mycobacterium tuberculosis* has received recent approval from the federal Food and Drug Administration for use and its use is recommended by the United States Centers for Disease Control and Prevention.

There are no implementation costs anticipated other than the \$200 cost of printing the Notice of Intent and the Rule in the Louisiana Register. No increase in the expenditure of funds is anticipated by the DHH/Office of Public Health in the implementation of the proposed rule and the management of the tuberculosis program. This testing will not be offered in the Public Health Laboratories of the Department of Health and Hospitals Office of Public Health. Likewise, there is no new workload adjustment or additional paperwork for the same reason.

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

There are no effects 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 new or additional costs and/or economic benefits to directly affected persons or non-governmental groups. Tuberculosis testing has been required for the same groups of persons by DHH/OPH and the cost to those affected is approximately the same for the blood assay as for the traditionally used tuberculin skin test. This test is an acceptable alternative to institutions to use for employees required to have tuberculosis testing for their work.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are estimated to be no effects on competition and employment.

Sharon Howard
Assistant Secretary
0610#059

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

Health Care Services Provider Fees
Pharmacy Services (LAC 48:I.4001)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 48:I.4001 as authorized by R.S. 36:254. 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 Management and Finance amended and repromulgated the rules governing provider specific fees for nursing facility services, intermediate care facility services for the mentally retarded and developmentally disabled, transportation services and pharmacy services in a codified format in Title 48 of the Louisiana Administrative Code (LAC) (*Louisiana Register*, Volume 26, Number 7). In June 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing inadvertently repromulgated the provisions governing provider fees for pharmacy services in LAC 50:XXIX which, in essence,

removed the provisions from Title 48 (*Louisiana Register*, Volume 32, Number 6).

The bureau now proposes to repeal the provisions governing provider fees for pharmacy services in LAC 50:XXIX.981 and repromulgate these provisions in LAC 48:I.4001. This action is being taken to place the provisions back in the appropriate Section in the Administrative Code.

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 48

PUBLIC HEALTH-GENERAL

Part I. General Administration

Subpart 1. General

Chapter 40. Provider Fees

§4001. Specific Fees

A. - C.2. ...

D. Pharmacy Services. A prescription fee shall be paid by each pharmacy and dispensing physician for each out-patient prescription dispensed. The fee shall be \$0.10 per prescription dispensed by a pharmacist or dispensing physician. Where a prescription is filled outside of Louisiana and not shipped or delivered in any form or manner to a patient in the state, no fee shall be imposed. However, out-of-state pharmacies or dispensing physicians dispensing prescriptions which are shipped, mailed or delivered in any manner inside the state of Louisiana shall be subject to the \$0.10 fee per prescription. The fee only applies to prescriptions which are dispensed and sold for human use. Pharmacies and dispensing physicians subject to prescription fees shall provide documentation quarterly, on a form provided by the department, of utilization for all medications dispensed in conjunction with payment of fees.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

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 Tuesday, November 28, 2006 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, 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: Health Care Services Provider Fees Pharmacy Services

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

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 06-07. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in FY 06-07 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 06-07. It is anticipated that \$136 will be expended in FY 06-07 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)

The Department proposes to repeal the current provisions governing provider fees for pharmacy services in LAC 50:XXIX and repromulgate these provisions in LAC 48:I under licensing standards for pharmacy providers. This action is being taken to place the provisions back in the appropriate section in the Administrative Code because they were inadvertently removed from Title 48. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 06-07, FY 07-08 and FY 08-09.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Jerry Phillips
Acting Medicaid Director
0610#084

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

Pharmacy Benefits Management Program—Antihemophilia
Drugs Reimbursements and Pharmacy Provider Fees
(LAC 50:XXIX.971 and 981)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to repeal LAC 50:XXIX.971 and 981 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the reimbursement methodology for antihemophilia drugs, factor products, to reduce the estimated acquisition cost reimbursement rate (*Louisiana Register*, Volume 32, Number 2). The bureau subsequently repromulgated all Rules governing Medicaid covered pharmacy services under the Louisiana Administrative Code (*Louisiana Register*, Volume 32, Number 6). In August 2006, an Emergency Rule was promulgated to amend the provisions of the June 20, 2006 Rule to repeal the Section dealing with reimbursement for antihemophilia drugs (*Louisiana Register*, Volume 32, Number 8). The bureau now proposes to adopt the following Rule to continue the provisions of the August 20, 2006 Emergency Rule.

In addition, the bureau also proposes to repeal the current provisions governing the provider fees for pharmacy services in LAC 50:XXIX and repromulgate these provisions in LAC 48:I. This action is being taken to place the provisions in the appropriate Section in the Administrative Code.

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 the implementation of this proposed Rule will have no effect on family functioning as described in R.S. 49:942.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 9. Methods of Payment

Subchapter F. Antihemophilia Drugs

§971. Reimbursement

A. Repealed.

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 32:1066 (June 2006), repealed LR 33:

Subchapter G. Provider Fees

§981. Prescription Fee

A. Repealed.

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 32:1066 (June 2006), repealed LR 33:

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 Tuesday, November 28 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, 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: Pharmacy Benefits
Management Program—Antihemophilia Drugs
Reimbursements and Pharmacy Provider Fees**

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

It is anticipated that implementation of this proposed rule will result in an estimated increase in expenses (restoration of proposed reductions) to the state of \$168,756 for FY 06-07 only. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in FY 06-07 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 implementation of this proposed rule will increase federal revenue collections by \$388,428 for FY 06-07 only. In FY 06-07 \$102 is included 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 continues the provisions of the August 20, 2006 emergency rule to repeal provisions that reduced the Estimated Acquisition Cost reimbursement rate under the Medicaid Program to prescription drug providers for Antihemophilia drugs, Factor products, to the average wholesale price minus 30 percent (approximately 547 claims per year). It also repeals provisions governing provider fees which will be repromulgated in Title 48. It is anticipated that implementation of this proposed rule will increase reimbursements for Antihemophilia drugs by \$556,980 for FY 06-07 only.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no effect on competition and employment as a result of the implementation of this proposed rule.

Jerry Phillips
Acting Medicaid Director
0610#083

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Regulation 78—Policy Form Filing Requirements
(LAC 37:XIII.Chapter 101)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 78 regarding policy form filing requirements.

The proposed regulation is being amended to 1) provide an exception to the requirements of a complete filing for a) the filing of an amendatory rider or endorsement associated or in connection with an insurance product including those that have been previously approved by the department not

more than three years prior to the filing of such rider or endorsement and b) the filing of insurance products under the Multi-State Review Program; 2) establish procedures relative to notice for policies that have been deemed approved by the insurer or withdrawn from consideration by the insurer; and, 3) embody statutory fees for policy form filings outlined in the insurance code. Additionally, in accordance with the passage of Act 325 of the 2004 Regular Session of the Louisiana Legislature, the proposed changes permit an insurer to issue a group, health, and accident insurance policy to a multiple employer trust fund established on behalf of participating employers, provided that statutory protections are the same for all participating employers and employees.

The changes affect the following: LAC 37:XIII §10101, §10105, §10107, §10109, §10113, §10115, §10117 and §10119. Section 10117 has been retitled and pertains to "Severability", which language was contained in §10105. Section 10119 was formerly §10117.

**Title 37
INSURANCE**

Part XIII. Regulations

Chapter 101. Regulation 78—Policy Form Filing Requirements

§10101. Purpose

A. - A.1. ...

2. to clarify the provisions of R.S. 22:620.B;
3. to protect the interests of insurance consumers and the public through improvements to the form filing, review and approval processes; and
4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, Directive 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 33:

§10105. Applicability and Scope

A. This regulation applies to all insurers doing business in the state of Louisiana subject to the form filing, review and approval provisions of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, Directive 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 33:

§10107. Filing and Review of Health Insurance Policy Forms and Related Matters

A. ...

Affirmative Approval—department approval, as a result of the department taking action, following compliance review of a complete filing, or a filing pursuant to Subsection D hereof.

Association—an organization legally formed for purposes other than the procurement of insurance and, depending upon the particular insurance products in question, meeting the requirements of R.S. 22:215.A(1)(a)(iv), or R.S. 22:250.1(5)(b), or R.S. 22:1734(4), whichever is applicable.

Certification of Compliance—certification by an insurer, executed by an officer or authorized representative of the insurer on a form prescribed by the department, that upon knowledge and belief a filing is complete and in

compliance with all applicable statutes, and rules and regulations promulgated by the department. A certification of compliance must be included with any filing for certified approval.

Certified Approval—approval on the basis of an expedited review by the department of a complete filing based upon the inclusion of a statement of compliance and a certification of compliance, executed by an officer or authorized representative of the filing insurer on a form prescribed by the department. The department shall by directive determine those specific types of coverages and particular types of contracts for which the certified approval procedure is either required or available at the option of the insurer.

Commissioner—the Commissioner of Insurance of the Louisiana Department of Insurance.

Complete Filing—the filing of a single insurance product, including any required filing fees; a basic insurance policy form, application form and supplemental application form, if any, to be attached to the policy or be a part of the contract; any life or health and accident rider or endorsement forms; all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable statement of compliance.

Deemed Approval—approval of a complete filing based upon notice, as provided herein, made to the department by the filing insurer, following expiration of the specific time periods as provided herein, where affirmative approval has not been granted and the filing has not been disapproved by the department.

Department—the Louisiana Department of Insurance.

Insurer—every person engaged in the business of making contracts of insurance, as further defined in R.S. 22:5. As used in this Section, insurer shall also include fraternal benefit societies and health maintenance organizations.

Method of Marketing—marketing either through independent or captive agents; telephone, electronic mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.

Trust—a fund established by an employer, two or more employers in the same industry, a labor union, an association, or to a multiple employer trust established by an insurer on behalf of participating employers, pursuant to a trust instrument which transfers title to property and/or funds to one or more trustees to be administered as fiduciaries for the benefit of others, pursuant to R.S. 22:215.A(1). All participating employers and employees must have the same statutory protections that would apply if such policy was purchased by the employer directly from the insurer.

B. ...

1. Pursuant to R.S. 22:620.A, no basic insurance policy form, other than surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, shall be issued, delivered, or used in this state unless and until it has been filed with and approved by the commissioner. This requirement also

applies to any group health or accident insurance policy covering residents of Louisiana, regardless of where issued or delivered. Every page of each such form including rider and endorsement forms filed with the department must be identified by a form number in the lower left corner of the page.

2. A health and accident transmittal document must accompany every filing, describing the items included in the filing, the insurance product for which the filing is being made, and the method of marketing to be used for the product. If the filing includes life insurance to be offered as an optional benefit under the base health insurance contract, the policy forms should be submitted in triplicate, notwithstanding the provisions of Paragraph C.2 hereof, and include the appropriate statement of compliance for said life insurance product.

C. ...

1. The department shall designate, by directive, those insurance products which must be filed pursuant to the requirements for certified approval as set forth in Subsection F hereof, "Time Periods and Requirements for Certified Approval of Policy Form Filings." A directive issued pursuant to this Subsection may also designate those insurance products which may, at the discretion of the insurer, be filed either pursuant to said requirements for certified approval, or as ordinary filings subject to review as set forth in Subsection E hereof. All insurance products not so designated shall be filed pursuant to the requirements for compliance review as set forth in Subsection E hereof, "Time Periods and Requirements for Compliance Review of Basic Insurance Policy Forms."

2. - 2.a.i. ...

ii. completed health and accident transmittal document as prescribed by the department;

2.a.iii. - 2.b.ii. ...

iii. completed health and accident transmittal document as prescribed by the department;

iv. - ix. ...

x. proposed plan of operation, as set forth in Regulation 33, Section 525.E for Medicare Select insurance plans, in duplicate;

xi. ...

xii. any new related advertising as defined in Rule 3A, Section 105, in duplicate; and

xiii. ...

c. Filings of policy forms for Long-Term Care insurance must include, in final wording, the following items, in order:

i. ...

ii. completed health and accident transmittal document as prescribed by the department;

iii. - xii. ...

xiii. any new related advertising as defined in Rule 3, Section 1305, in duplicate; and

c.ix. - d. ...

e. Filings of group health and accident products intended for issuance to an association are limited to associations as defined herein and must include the association's constitution, by-laws, membership application, membership agreement and brochure of membership benefits other than the insurance products offered.

f. Filings of group health and accident products intended for issuance to a trust are limited to trusts established by an employer, an association, or to a multiple employer trust established by an insurer on behalf of participating employers, and must include the trust agreement, articles of incorporation or other instrument creating the trust, and member adoption agreement. If the trust was established by an association, the filing must include the information described in Subparagraph C.2.e hereof.

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed at the discretion of the department, subject to the conditions stated herein, for the following policy forms.

1. - 3. ...

4. Long-Term Care Advertising. No filing fees will be required for these filings.

5. Filings of amendatory riders or endorsements are permitted where the insurance product to be altered was originally certified or granted affirmative approval not more than three years prior to the filing of said amendatory rider or endorsement.

a. Such filings must include either:

i. specimen copies of the pertinent previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized; or

ii. a detailed list that includes:

(a) the department's form filing number;

(b) date of approval; and

(c) the form number for each previously approved policy form for which the amendment applies.

b. Such filings must also include an affidavit, on a form prescribed by the department, affirming that the insurance product, if amended by rider or endorsement as requested, will be fully compliant with all pertinent statutes and regulations. Premium rates and classification of risks are not required with such filings.

c. Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

6. Filings of amendatory riders or endorsements, as needed to bring into compliance with law any existing insurance products that have been previously certified or granted affirmative approval and are currently in force but are no longer being marketed, must include specimen copies of the previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized. Premium rates and classification of risks are not required with such filings. The transmittal document shall advise that the previously approved or certified form is no longer being marketed. Such filings must include statutory filing fees for standardized plans in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

7. Medicare Supplement Rate Filings. Such filings must clearly indicate the percentage of increase in rates for each standardized plan and existing pre-standardized plan. Such filings must include statutory filing fees for standardized plans in accordance with the most current fee

schedule applicable to such filings, as set forth by the Louisiana Legislature.

8. Exclusionary riders pursuant to R.S. 22:250.11.C; provided that the policy form filings and dates approved are identified for each previously approved product with which the exclusionary rider form will henceforth be used. No filing fees will be required for these filings. The exclusionary rider form shall be included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing.

9. Assumption certificates, which must be filed in duplicate, with a single copy of the assumption agreement, letter of domiciliary state approval, information fully identifying the block of business being assumed, the number of covered lives residing in the state of Louisiana to be affected by the assumption, and the effective date of the assumption. No filing fees will be required for these filings.

10. Following approval of a complete filing of a Medicare Supplement insurance product, subsequent filings by the same insurer of standardized plans of insurance of the same type do not require inclusion of associated forms such as the replacement notice or plan of operation, unless changes have been made or the plan of operation has changed. No filing fees will be required for any of the above associated forms. However, subsequent filings of an outline of coverage will require a filing fee in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

11. Following approval of a complete filing of a long-term care insurance product, subsequent filings by the same insurer of other long-term care products do not require inclusion of associated forms such as the replacement notice, personal worksheet, disclosure notice and suitability letter, unless changes have been made. No filing fees will be required for any of the above associated forms. However, subsequent filings of an outline of coverage will require a filing fee in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

12. Forms for lines of insurance or insurance products specifically exempted pursuant to statute.

E. - E.1 ...

2. If a filing is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this regulation.

3. ...

4. If affirmatively approved by order of the commissioner prior to expiration of the 45-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.

5. ...

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the insurer shall submit written notice to the department if the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46, but not earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 45-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different

from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

7. The commissioner may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. ...

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46 referred to in Paragraph E.6 or day 61, but not earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day extended period, clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

F. - F.3. ...

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming certified approval or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 16, but not earlier than the 15-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

5. No insurer, through an officer or authorized representative, shall file a certification of compliance containing false attestations, or from which material facts or information have been omitted. In the event that the department subsequently learns that a certification of compliance contains any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the insurer may be subjected to the provisions of Subsection I hereof.

G. ...

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing, must comply with all provisions of this Section for such a filing, and, in addition to the required filing fee, must include:

a. - b. ...

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the commissioner on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. - c. ...

d. a copy of the prior order of approval, issued by the commissioner on the previous filing.

3. When a previously approved form has been rewritten, it must be assigned a unique form number, and such form must be filed as an original filing.

H. ...

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, insurers shall revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise expressed by the Louisiana Legislature.

2. A retrospective review process is utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

3. Insurers shall notify the department in writing to advise when a previously approved basic insurance policy form will no longer be marketed in this state and is being permanently withdrawn from the market. Such notification shall also advise whether or not coverage issued in this state under the policy form remains in force and whether or not such existing business will continue to be renewed. The notification shall provide the policy form numbers being discontinued and dates originally approved by the department.

I. ...

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an insurer, if the department determines that any of the reasons for disapproval as stated in R.S. 22:621 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected insurer or immediately where there has been a violation of the Louisiana Insurance Code that results in irreparable injury, loss, or damage and injunctive relief is necessary. In the event injunctive relief is granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

a. ...

b. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall

recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4 and 5 hereof.

2. ...

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the department's withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which department approval has been withdrawn; and

2.c. - 3.b.ii. ...

c. Where such a required change can be clearly explained to prospective policyholders through amendatory endorsement forms or rider forms, such approval shall not extend to any reprinting of such forms.

4. Thirty days following receipt of the notice by the affected insurer, of withdrawal of approval by the department, an affected product shall not be issued by the insurer, except in accordance with a corrective action plan approved by the department. The insurer has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly. In the event the affected insurer issues the product without approval from the department, and injunctive relief is necessary and granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

5. - 7. ...

J. Appeals and Hearings

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Part XXIX of Title 22 of the Louisiana Revised Statutes. Pursuant to R.S. 22:1351, such demand must be in writing, must specify in what respects such person is aggrieved and the grounds to be relied upon as basis for relief to be demanded at the hearing, and must be made within 30 days of receipt of actual notice or, if actual notice is not received, within 30 days of the date such insurer or other person learned of the act, or failure to act, upon which the demand for hearing is based.

K. ...

1. Every person filing policy forms, or related forms, for approval by the department shall maintain the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained for a period of five years after the forms have been withdrawn from the market in accordance with Paragraph H.3 hereof and no coverage issued on risks in this state utilizing such forms remains in force.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 33:

§10109. Filing and Review of Life and Annuity Insurance Policy Forms and Related Matters

A.

Affirmative Approval—department approval, as a result of the department taking action, following compliance review of a complete filing, or a filing pursuant to Subsection D hereof.

* * *

Certification of Compliance—certification by an insurer, executed by an officer or authorized representative of the insurer on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A certification of compliance must be included with any filing for certified approval.

Certified Approval—approval on the basis of an expedited review by the department of a complete filing based upon the inclusion of a statement of compliance and a certification of compliance, executed by an officer or authorized representative of the filing insurer on forms prescribed by the department. The department shall by directive determine those specific types of coverage and particular types of contracts for which the certified approval procedure is either required or available at the option of the insurer.

Commissioner—the Commissioner of Insurance of the Louisiana Department of Insurance.

Complete Filing—the filing of a single insurance product, including any required filing fees; a basic insurance policy form, application form and supplemental application form, if any, to be attached to the policy or be a part of the contract; any life or health and accident rider or endorsement forms; all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable statement of compliance.

* * *

Deemed Approval—approval of a complete filing based upon notice, as provided herein, made to the department by the filing insurer, following expiration of the specific time periods as provided herein, where affirmative approval has not been granted and the filing has not been disapproved by the department.

Department—the Louisiana Department of Insurance.

* * *

Insurer—every person engaged in the business of making contracts of insurance, as further defined in R.S. 22:5. As used in this Section, insurer shall also include fraternal benefit societies.

Method of Marketing—marketing either through independent or captive agents; telephone, electronic mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.

* * *

B. ...

1. Pursuant to R.S. 22:620.A, no basic insurance policy form, other than surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, shall be issued, delivered, or used in this state unless and until it has been filed with and approved by the commissioner. This requirement applies to any group life insurance policy or annuity covering residents of Louisiana where issued or delivered in Louisiana. Every page of each such form including rider and endorsement forms filed with the department must be identified by a form number in the lower left corner of the page.

2. A life and annuity transmittal document must accompany every filing, describing the items included in the filing, the insurance or annuity product for which the filing is being made, and the method of marketing to be used for the product. If the filing includes health insurance to be offered as an optional benefit under the base life insurance contract, the policy forms should be submitted in triplicate, notwithstanding the provisions of Paragraph C.2 hereof, and include the appropriate statement of compliance for said health insurance product.

C. - C.2.a.i. ...

ii. completed life and annuity transmittal document as prescribed by the department;

2.a.iii. - 2.b.i. ...

ii. completed life and annuity transmittal document as prescribed by the department;

iii. - x. ...

c. Filings of group life and annuity products intended for issuance to an association are limited to associations as defined herein, and must include the association's constitution, by-laws, membership application, membership agreement and brochure of membership benefits other than the insurance products offered.

d. Filings of group life and annuity products intended for issuance to a trust are limited to trusts established by an employer or association and must include the trust agreement, articles of incorporation or other instrument creating the trust, and member adoption agreement. If the trust was established by an association, the filing must include the information described in Subparagraph C.2.c hereof. This Subsection shall not apply to trusts established by qualified or government pension plans.

e. Filings of amendatory riders or endorsements are permitted where the insurance product to be altered was originally certified or granted affirmative approval not more than three years prior to the filing of said amendatory rider or endorsement.

i. Such filings must include either:

(a). specimen copies of the pertinent previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized; or

(b). a detailed list that includes:

(i). the department's form filing number;

(ii). date of approval; and

(iii). the form number for each previously approved policy form for which the amendment applies.

ii. Such filings must also include an affidavit, on a form prescribed by the department, affirming that the insurance product, if amended by rider or endorsement as requested, will be fully compliant with all pertinent statutes and regulations. Actuarial memorandums are not required with such filings.

iii. Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

f. Filings of amendatory riders or endorsements as needed to bring into compliance with law any existing insurance or annuity products that have been previously approved and are currently in force but are no longer being marketed, must include specimen copies of the previously approved forms, the dates previously approved, and the specific terms and provisions being amended, underlined in red or otherwise noted. The transmittal letter shall advise that the previously approved form is no longer being marketed. Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed at the discretion of the department, subject to the conditions stated herein, for the following policy forms.

1. - 4. ...

5. Multi-State Review Program. The Multi-State Review Program is a program consisting of several participating states that allows an insurer to simultaneously file an insurance product through the state of Florida's online I-Filing System while providing simultaneous approval of such product in all participating states. Approval is subject to the combined review standards of the participating states. A filing fee is required for insurance products filed under the Multi-State Review Program.

E. - E.1. ...

2. If a filing is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this regulation.

3. ...

4. If affirmatively approved by order of the commissioner prior to expiration of the 45-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.

5. ...

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the insurer shall submit written notice to the department if the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46, but no earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 45-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

7. The commissioner may send written notice prior to expiration of the initial 45-day period extending the time

allowed for approval or disapproval by an additional 15 days.

a. ...

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46 referred to in Paragraph E.6 or day 61 but no earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day extended period, clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

F. ...

1. The department will make available Statements of Compliance setting forth the statutory and regulatory requirements specific to the various forms of coverage and contract types, as well as Certification of Compliance forms.

2. - 3. ...

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming certified approval or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 16, but no earlier than the 15-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

5. No insurer, through an officer or authorized representative, shall file a certification of compliance containing false attestations, or from which material facts or information have been omitted. In the event that the department subsequently learns that a certification of compliance contains any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the insurer may be subjected to the provisions of Subsection I hereof.

G. ...

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. - b. ...

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the commissioner on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. - c. ...

d. a copy of the prior order of approval, issued by the commissioner on the previous filing.

3. When a previously approved form has been rewritten, it must be assigned a unique form number, and such form must be filed as an original filing.

H. ...

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, insurers shall revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise expressed by the Louisiana Legislature.

2. A retrospective review process is utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

H.3. - I. ...

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an insurer, if the department determines that any of the reasons for disapproval as stated in R.S. 22:621 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected insurer or immediately where there has been a violation of the Louisiana Insurance Code that results in irreparable injury, loss, or damage and injunctive relief is necessary. In the event injunctive relief is granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

a. ...

b. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4 and 5 hereof.

2. ...

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance

with the findings stated in the department's withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which department approval has been withdrawn; and

2.c. - 3.c. ...

4. Thirty days following receipt of the notice by the affected insurer, of withdrawal of approval by the department, an affected product shall not be issued by the insurer, except in accordance with a corrective action plan approved by the department. The insurer has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly. In the event the affected insurer issues the product without approval from the department, and injunctive relief is necessary and granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

5. - 7. ...

J. Appeals and Hearings

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Part XXIX of Title 22 of the Louisiana Revised Statutes. Pursuant to R.S. 22:1351, such demand must be in writing, must specify in what respects such person is aggrieved and the grounds to be relied upon as basis for relief to be demanded at the hearing, and must be made within 30 days of receipt of actual notice or, if actual notice is not received, within 30 days of the date such insurer or other person learned of the act, or failure to act, upon which the demand for hearing is based.

K. ...

1. Every person filing policy forms, or related forms, for approval by the department shall maintain the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained for a period of five years after the forms have been withdrawn from the market in accordance with Paragraph H.3 hereof and no coverage issued on risks in this state utilizing such forms remains in force.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620 and R.S. 22:621.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2544 (December 2002), amended LR 33:

§10113. Filing and Review of Property and Casualty Insurance Policy Forms and Related Matters

A. ...

Affirmative Approval—department approval, as a result of the department taking action, following compliance review of a complete filing, or a filing pursuant to Subsection D hereof.

Basic Insurance Policy Form—an insurance contractual agreement delineating the terms, provisions and conditions of a particular insurance product. It includes endorsements, and application forms where written application is required and is to be attached to the policy or be a part of the contract. It does not include policies, riders, or endorsements designed, at the request of the individual policyholder, contract holder, or certificate holder, to delineate insurance coverage upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policy.

Certification of Compliance—certification by an insurer, executed by an officer or authorized representative of the insurer on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A certification of compliance must be included with any filing for certified approval.

Certified Approval—approval on the basis of an expedited review by the department of a complete filing based upon the inclusion of a statement of compliance and a certification of compliance, executed by an officer or authorized representative of the filing insurer on forms prescribed by the department. The department shall by directive determine those specific types of coverage and particular types of contracts for which the certified approval procedure is either required or available at the option of the insurer.

Commissioner—the Commissioner of Insurance of the Louisiana Department of Insurance.

Complete Filing—the filing of a single insurance product, including any required filing fees; a basic insurance policy form, application form to be attached to the policy or be a part of the contract; all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable statement of compliance.

* * *

Deemed Approval—approval of a complete filing based upon notice, as provided herein, made to the department by the filing insurer, following expiration of the specific time periods as provided herein, where affirmative approval has not been granted and the filing has not been disapproved by the department.

Department—the Louisiana Department of Insurance.

* * *

Method of Marketing—marketing either through independent or captive agents; telephone, electronic mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.

Rate/Rule Approval—a department notice addressed to an insurer granting authorization to implement or revise rates and/or rules on a specified date.

* * *

B. ...

1. Pursuant to R.S. 22:620.A, no basic insurance policy form, other than surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, shall be issued, delivered, or used in this state unless and until it has been filed with and

approved by the commissioner. Every page of each such form including rider and endorsement forms filed with the department must be identified by a form number in the lower left corner of the page.

B.2. - C.2.a.ii. ...

iii. completed property and casualty transmittal document as prescribed by the department;

2.a.iv. - 3.a. ...

i. required filing fee, per adoption of each advisory organization's reference or item filing, per insurance company whether or not delayed;

a.ii. - b.iv. ...

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed at the discretion of the department, subject to the conditions stated herein, for the following policy forms:

1. informational filings, submitted for acknowledgement, for surety bond forms as exempted by R.S. 22:620 A(1). No filing fees will be required for these filings.

2. ...

3. application forms or enrollment forms to be used with a particular insurance product, or with multiple insurance products, provided that the policy form filings and dates approved are identified for each previously approved product with which the application form will henceforth be used, and the application form is included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing. No filing fees will be required for these filings;

4. ...

5. riders or endorsements. Filings of amendatory riders or endorsements are permitted where the insurance product to be altered was originally certified or granted affirmative approval.

a. Such filings must include either:

i. specimen copies of the pertinent previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized; or

ii. a detailed list that includes:

(a) the department's form filing number;

(b) date of approval; and

(c) the form number for each previously approved policy form for which the amendment applies.

b. The rider or endorsement forms shall be included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing.

c. Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

E. - E.1. ...

2. If a filing is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this regulation.

3. A basic insurance policy form must be submitted to the department in accordance with the "General Filing Requirements" of this Section no less than 45 days in advance of planned issuance, delivery or use.

4. - 5. ...

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the

insurer shall submit written notice to the department if the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46, but not earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 45-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

7. The commissioner may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. ...

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date or, advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46 referred to in Paragraph E.6 or day 61, but not earlier than the 45 day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day extended period, clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

F. - F.2.a. ...

b. signed and dated certification of compliance;

c. all other items as set forth in Paragraph C.2 hereof.

3. ...

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming certified approval or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 16, but no earlier than the 15-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

5. No insurer, through an officer or authorized representative, shall file a certification of compliance containing false attestations, or from which material facts or information have been omitted. In the event that the department subsequently learns that a certification of compliance contains any inaccuracies, false attestations, or material omissions, approval of the subject forms may be

withdrawn, and the insurer may be subjected to the provisions of Subsection I hereof.

G. ...

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing, must comply with all provisions of this Section for such a filing, and, in addition to the required filing fee, must include:

a. - b. ...

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the commissioner on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. - c. ...

d. a copy of the prior order of approval, issued by the commissioner on the previous filing.

3. When a previously approved form has been rewritten, it must be assigned a unique form number, and such form must be filed as an original filing.

H. ...

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, insurers shall revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise expressed by the Louisiana Legislature.

2. A retrospective review process is utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

H.3. - I. ...

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an insurer, if the department determines that any of the reasons for disapproval as stated in R.S. 22:621 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected insurer or immediately where there has been a violation of the Louisiana Insurance Code that results in irreparable injury, loss, or damage and injunctive relief is necessary. In the event injunctive relief is granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

a. ...

b. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4, and 5 hereof.

2. ...

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the department's withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which department approval has been withdrawn; and

2.c. - 3.b.ii. ...

c. Where such a required change can be clearly explained to prospective policyholders through amendatory endorsement forms or rider forms, an insurer may request department approval to utilize its existing inventory of the policy forms in question subject to the incorporation of approved amendatory endorsement forms or rider forms. Such approval shall not extend to any reprinting of such forms.

4. Thirty days following receipt of the notice by the affected insurer, of withdrawal of approval by the department, an affected product shall not be issued by the insurer, except in accordance with a corrective action plan approved by the department. The insurer has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly. In the event the affected insurer issues the product without approval from the department, and injunctive relief is necessary and granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

5. - 7. ...

J. Appeals and Hearings

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Part XXIX of Title 22 of the Louisiana Revised Statutes. Pursuant to R.S. 22:1351, such demand must be in writing, must specify in what respects such person is aggrieved and the grounds to be relied upon as basis for relief to be demanded at the hearing, and must be made within 30 days of receipt of actual notice or, if actual notice is not received, within 30 days of the date such insurer or other person learned of the act, or failure to act, upon which the demand for hearing is based.

K. ...

1. Every person filing policy forms, or related forms, for approval by the department shall maintain the original set

of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained for a period of five years after the forms have been withdrawn from the market in accordance with Paragraph H.3 hereof, and no coverage issued on risks in this state utilizing such forms remains in force.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620 and R.S. 22:621.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2548 (December 2002), amended LR 33:

§10115. Penalties

A. Pursuant to R.S. 22:1462.1, "False or Fraudulent Material Information," in accordance with all provisions thereof, and specifically applicable to all documents required by this regulation.

1. It shall be unlawful for any person to intentionally and knowingly supply false or fraudulent material information pertaining to any document or statement required by the department.

A.2. - B. ...

1. The provisions of R.S. 22:1217, including:

a. payment of a monetary penalty of not more than \$1,000 for each and every act or violation, but not to exceed an aggregate penalty of \$100,000 unless the person knew or reasonably should have known he was in violation of applicable law, in which case the penalty shall be not more than \$25,000 for each and every act or violation, but not to exceed an aggregate penalty of \$250,000 in any six-month period; and

1.b. - 2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:

§10117. Severability

A. If any provision of this regulation, or its application to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to that end, the provisions of this regulation are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:

§10119. Effective Date (formerly Section 10117)

A. This regulation became effective January 1, 2003; however, the amendments to this regulation will become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:

Family Impact Statement

The proposed amendments to LAC 37:XIII, Chapter 101 regarding policy form filing requirements should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

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

A public hearing on this proposed regulation will be held on November 27, 2006, at 9:30 a.m., in the Poydras 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 Carol Fowler-Guidry, 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., November 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 78 Policy Form Filing Requirements

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

DOI does not expect any implementation costs as a result of the adoption of this regulation. The Department of Insurance currently performs policy forms filing, review and approval. This regulation clarifies the processes already in place. Extra workload, if any, will be absorbed by existing DOI staff.

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

There will be some increase in revenue (approximately \$5,000) collected by DOI as a result of this regulation. The Life and Annuity division was not previously charging the fees set forth for certain policy form filings.

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

There will be some additional costs for Life and Annuity insurers making certain policy form filings because the Department of Insurance was not previously charging the appropriate fee(s) for all filings in that division.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this regulation should have no impact upon competition and employment in the state.

Chad M. Brown
Deputy Commissioner
0610#057

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Interest Abatement and Compromise (LAC 61:III.2115)

Under authority of R.S. 47:1601(A)(2)(d) and (e) and 47:1511 and in accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:III.2115 to provide guidance as to when interest will be abated or compromised.

Revised Statute 47:1601(A)(2)(d) authorizes the secretary to abate interest due to unreasonable errors or delays by the department in performing ministerial or managerial acts. Revised Statute 47:1601(A)(2)(e) authorizes the secretary to waive interest to promote the effective administration of the tax laws. Guidance is needed to make taxpayers aware of the circumstances under which interest will be abated or compromised.

Title 61 REVENUE AND TAXATION

Part III. Department of Revenue—Administrative Provisions and Miscellaneous

Chapter 21. Interest and Penalties

§2115. Abatement and Compromise of Interest

A. Abatement of Interest under R.S. 47:1601(A)(2)(d)

1. The following definitions apply when determining whether interest may be abated under R.S. 47:1601(A)(2)(d).

a. *Managerial Act*—an administrative act that occurs during the processing of a taxpayer's case involving the temporary or permanent loss of records or the exercise of judgment or discretion relating to management of personnel. A decision concerning the proper application of the law is not a managerial act. Further, a general administrative decision, such as the department's decision on how to organize the processing of tax returns or its delay in implementing an improved computer system, is not a managerial act for which interest can be abated under this Section.

b. *Ministerial Act*—a procedural or mechanical act that does not involve the exercise of judgment or discretion, and that occurs during the processing of a taxpayer's case after all prerequisites, such as conferences and review by supervisors, have taken place. A decision concerning the proper application of the law is not a ministerial act.

2. The following circumstances are examples of situations that do not constitute an unreasonable error or delay by the department.

a. Interest accrues as a result of the taxpayer's failure to pay the tax liability he calculates for each period when due.

b. Interest accrues as a result of the taxpayer's failure to pay the entire balance owed once he and the department are in agreement as to the amount of the balance.

c. Interest accrues while the taxpayer waits for a determination of his refund claim in order to offset prior period underpayments.

d. Interest accrues as a result of the taxpayer's failure to cooperate with department personnel. Examples include but are not limited to:

- i. the taxpayer does not timely furnish information to the department;
- ii. the taxpayer delays meetings or appointments with department personnel.

B. Compromise of Interest under R.S. 47:1601(A)(2)(e)

1. Before the secretary may consider compromising any amount of interest, the taxpayer must have paid all outstanding taxes.

2. When determining whether or not to compromise interest for a taxpayer, the secretary will examine the taxpayer's filing and compliance history, any special circumstances that may exist, and the hazards of litigation. This list is not all-inclusive.

3. Interest may be compromised when the department and the taxpayer interpret the law differently and there is no binding judicial decision regarding the issue. If interest is compromised with regard to an unresolved issue, the taxpayer will agree to thereafter operate under the department's interpretation of the law.

4. Interest may only be compromised for a specific taxpayer if the taxpayer has not had any interest compromised within the past five years.

5. Interest may only be compromised for a specific taxpayer if neither the taxpayer, his affiliates, nor his related entities have ever had any interest compromised that arose from the same issue.

6. The secretary may compromise any portion of the total interest for which compromise is requested.

7. Following is a partial list of circumstances in which interest will not be compromised.

a. Taxpayer is party to a voluntary disclosure agreement for the period in which the interest accrued.

b. Interest accrues as a result of participation in an abusive tax avoidance transaction.

c. Interest that accrues on trust taxes that the taxpayer has collected but not remitted.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:1601(A)(2)(d) and (e) and 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 33:

Family Impact Statement

This proposed Rule, LAC 61:III.2115, which provides guidance as to when interest will be abated or compromised, 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 persons may submit data, views, or arguments, in writing to Leonore Heavey, Senior Policy Consultant, Policy Services Division, Department of Revenue, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225)

219-2759. All comments must be submitted by 4:30 p.m., Monday, November 27, 2006. A public hearing will be held on Tuesday, November 28, 2006, at 10 a.m. in the 7th Floor River Room of the LaSalle Building at 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Interest Abatement and Compromise**

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

This proposed rule provides guidance to taxpayers as to when interest will be abated or compromised under R.S. 47:1601(A)(2)(d), which authorizes the secretary to abate interest when due to unreasonable errors or delays by the department in performing ministerial or managerial acts, or R.S. 47:1601(A)(2)(e), which authorizes the secretary to waive the interest to promote the effective administration of the tax laws.

Implementation of this proposed rule will have minimal impact on the agency's costs. Compromising or abating interest under certain circumstances will promote the effective administration of the tax laws and allow disputed cases to be resolved. The proposed rule will have no costs or savings to local governmental units.

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

This proposed rule, which provides guidance to taxpayers of the circumstances under which interest will be abated or compromised, will result in an indeterminable reduction in the state's interest collections. We do not have data to estimate the amount of the revenue loss. This proposed rule will have no effect on the revenue collections of local governmental units.

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

This proposed rule, which provides for circumstances under which interest will be abated or compromised, will result in reduced interest payments for qualifying taxpayers. The amount of the interest to be abated or compromised cannot be determined.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no effect on competition or employment.

Cynthia Bridges
Secretary
0610#060

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Sales Tax Exclusions for Paper and Wood Products
Manufacturing Facilities (LAC 61:I.4304)

Under the authority of R.S. 47:301(j), 301(13)(m), 302(T), 321(J), 331(R), and R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.4304 to provide

guidance to taxpayers concerning the sales tax exclusions provided by Act 48 of the 2005 First Extraordinary Session of the Louisiana Legislature.

Act 48 amends the sales tax definitions of "cost price" and "sales price" to provide that paper and wood products manufacturers shall be liable for sales or use tax payment only on the first \$6.20 per MMBtu of the "cost price" or "sales price" of their purchases of natural gas during the period July 1, 2006, through December 31, 2008.

Act 48 also enacts R.S. 47:302(T), 321(J), and 331(R) to provide that paper or wood products manufacturing facilities shall not be liable for sales or use tax on their sales, purchases, or uses of electric power or energy during the same period.

This proposed Rule defines "paper manufacturing facility" and "wood products manufacturing facility" and provides for the application of the exclusion for facilities that engage in additional revenue-producing activities in the facility.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4304. Exclusions for Paper and Wood Products Manufacturing Facilities

A. For purposes of the sales tax exclusions provided by R.S. 47:301(j), 301(13)(m), 302(T), 321(J), and 331(R) for paper and wood products manufacturing facilities, the following definitions apply.

Paper Products Manufacturing Facility—a facility that manufactures paper through the introduction of wood, rags, and other raw materials into chemical processes. This includes the production of finished paper products, such as towels, packages, cartons, boxes, and wraps. Businesses that manufacture products using paper produced by others, such as printers, publishers, engravers, and sign makers are not considered to be paper products manufacturers for the purposes of the sales tax exclusions.

Wood Products Manufacturing Facility—a facility that produces products from saw logs, parts of saw logs, or wood residue, and includes lumber mills, saw mills, manufacturers of plywood, and manufacturers of particle board. Businesses that fabricate products from woods manufactured by others, such as cabinet makers and millwork producers are not considered to be wood products manufacturers for the purposes of the sales tax exclusions.

B.1. The sales tax exclusions extend to natural gas, electric power, and energy consumed for both manufacturing and non-manufacturing activities within paper or wood products manufacturing facilities, such as lighting, heating, and cooling, provided that:

a. no revenue producing activity, other than paper or wood products manufacturing, is conducted within the facility, and

b. any administrative functions conducted within the facility, such as human resources, sales, or accounting, relate solely to the local manufacturing facility.

2. If revenue producing activities other than paper or wood products manufacturing are conducted within a facility, or if administrative functions conducted within a facility relate other than to the local facility's paper or wood products manufacturing operations, the consumption of

electric power or energy and natural gas must be apportioned between the paper and wood products manufacturing and the other business activities. The sales or use tax on the other business activities must be paid on the tax bases or at the tax rates that are applicable to those other business activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:301(j), 301(13)(l), 302(T), 321(J), 331(R), and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 33:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our Legislative oversight committees.

1. Implementation of this proposed Rule will have no effect on the stability of the family.

2. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

6. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Monday, November 27, 2006. A public hearing will be held on Wednesday, November 29, 2006, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Sales Tax Exclusions for Paper and Wood Products Manufacturing Facilities

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

Act 48 of the 2005 First Extraordinary Legislative Session provides that during the period July 1, 2006, through December 31, 2008, the taxable base on sales of natural gas to paper and wood products manufacturing facilities shall not exceed any amount in excess of \$6.20 per MMBtu and that no state sales tax will be due on sales of electric power or energy to paper and wood products manufacturing facilities. This proposed rule defines the terms "paper products manufacturing facility" and "wood products manufacturing facility," for purposes of eligibility for these tax reductions.

Implementation of this proposed rule will have minimal impact on the Department of Revenue's costs. Costs will be incurred to prepare news releases and information to be posted

on the department's web site to inform taxpayers of the tax reductions and to print and process applications for the rate reductions from eligible taxpayers.

The proposed rule will have no costs or savings to local governmental units, since local sales and use taxes are not levied on sales of electricity or natural gas.

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

The Enrolled Fiscal Note on Act 48 of the 2005 First Extraordinary Session estimated State revenue losses based on tax reductions for paper and wood products manufacturing facilities. The Fiscal Note estimated that such losses would be the following: \$5.5 million in FY 2006-07, \$5 million in FY 2007-08, and \$2.4 million in FY 2008-09. These amounts represent likely maximum revenue losses to the state because natural gas prices are currently lower than forecast in the fall of 2005 when the original estimates were developed. Actual revenue losses will depend on natural gas prices through FY 2008-09 and may not exceed the original estimates in the Fiscal Note.

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

Paper and wood products manufacturers will financially benefit from the rule and associated Act in the amounts indicated in the preceding paragraph.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should provide a positive effect on competition and employment in the paper and wood products manufacturing industries.

Cynthia Bridges
Secretary
0610#038

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
Board of Trustees of the Louisiana State Employees'
Retirement System**

**Vesting—Prior State Employment
(LAC 58.I.4501 and 4503)**

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes to adopt LAC 58.I.4501 and 4503. The proposed Rules clarify existing law to show which LASERS rank-and-file members are vested for certain eligibility, contribution rates and other matters related to the enactment of Act 75 of 2005. These proposed Rules comply with and are enabled by R.S. 11:515 and 537.

No preamble for these proposed Rules is necessary.

Title 58

RETIREMENT

**Part I. State Employees' Retirement System
Chapter 45. Effects of Act 75 of the 2005 Regular
Session**

§4501. Members Affected

A. This Chapter concerns those members of LASERS affected by Act 75 of the 2005 Regular Session of the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:537.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 33:

§4503. Vesting because of Prior State Employment

A. Members whose first employment making them eligible for membership in the system began on or before June 30, 2006 and who subsequent to that date cease such employment shall remain vested under the retirement eligibility provisions existing on that date, but only so long as they do not receive a refund of their accumulated employee contributions on or after July 1, 2006.

B. Upon receipt of a refund of accumulated contributions, all rights in the system are cancelled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:537.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 33:

Family Impact Statement

The proposed enactment of LAC 58.I.4501 and 4503 concern the enactment of Act 75 of the 2005 Regular Session, which established a new tier within the Louisiana State Employees' Retirement System ("LASERS"). That tier is comprised of rank-and-file members hired on or after July 01, 2006. The Act also contains a number of changes to retirement eligibility, employee contributions, etc., that distinguish these state employees from those hired prior to that date. These regulations should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

Interested persons may submit written comments on the proposed changes until 4:30 p.m., November 30, 2006, to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement System, P.O. Box 44213, Baton Rouge, LA 70804.

Cindy Rougeou
Executive Director

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

RULE TITLE: Vesting—Prior State Employment

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

No implementation costs to state or local governmental units are anticipated to result from the implementation of this rule.

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

No effect on revenue collections of state or local governmental units is anticipated to result from the implementation of this rule.

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

Members whose first state employment making them eligible for membership in LASERS began on or before June 30, 2006 and who subsequent to that date cease such employment but later become re-employed by the state shall be affected. Because the rules merely clarify existing law, no costs or economic benefits to those persons are anticipated to result.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated to result from the implementation of these rules.

Cindy Rougeou
Executive Director
0610#068

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
Board of Trustees of the Louisiana State Employees'
Retirement System**

**Renunciation of Benefit
(LAC 58.I.2301)**

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes to amend LAC 58.I.2301. This proposed Rule sets out the terms and conditions under which a retiree may renounce all or part of his benefit. This proposed Rule complies with and is enabled by R.S. 11:515 and 11:452.

No preamble for this proposed Rule is necessary.

Title 58

RETIREMENT

**Part I. Louisiana State Employees' Retirement System
Chapter 23. Renunciation of Benefit**

**§2301. Terms and Conditions of Renunciation of
Benefit**

A. Any person eligible to receive, or receiving, a benefit from the Louisiana State Employees' Retirement System may renounce such benefit under the following terms and conditions.

1. The renunciation shall be unconditional and irrevocable. Once a benefit is renounced, LASERS shall have no further obligation or liability with respect to that benefit, and the person renouncing the benefit shall, under no circumstances, be eligible to receive that benefit.

2. A base benefit may be renounced in whole or in part. An adjustment to a base benefit (cost-of-living adjustment, adjustment for inflation, or one-time supplemental payment) may only be renounced in its entirety. If an adjustment is renounced, the base benefit need not be renounced.

3. If more than one person is entitled to receive a particular survivor benefit, each person entitled to a portion of the benefit may renounce his entitlement. The person or persons who continue to have an entitlement in that benefit shall receive the benefit to which they are entitled without consideration of the person who becomes ineligible through renunciation. Any adjustment shall be prospective only.

4. If the party making the renunciation is married, the spouse must join in the renunciation.

5. If the person making the renunciation is subject to an executed and effective community property settlement, only that portion of the benefit due the person making the renunciation may be renounced, except as provided for in R.S. 11:446.E.

6. If the person making the renunciation is legally separated or divorced, but is not subject to an executed and effective community property settlement, the renunciation must be approved by the court having jurisdiction over the separation or divorce.

7. If the person making the renunciation is retired and has named a joint and survivor beneficiary, the renunciation cannot affect the joint and survivors' beneficiary or benefit, including adjustments to the joint and survivor benefit.

8. If a benefit is renounced by a member prior to receipt by the member of a sum equal to his or her accumulated contributions, the balance of the accumulated contributions will be paid to the member.

9. A renunciation must be made on a form provided by LASERS, and must be executed before a notary public and two witnesses, neither of whom may be a spouse nor presently named beneficiary. The renunciation is effective and irrevocable when received by LASERS.

10. A person revoking or participating in renunciation of a benefit must hold LASERS harmless from such action.

11. A renunciation may not be used to terminate active participation in LASERS.

12. Amounts credited to a DROP account cannot be renounced.

13. A benefit or portion of a benefit that has been renounced may be used to recoup benefits or refunds of accumulated contributions paid by administrative error or mistake.

14. Only those persons who have selected the maximum benefit or Option 1 under R.S. 11:441 may renounce their entire monthly benefit.

B. LASERS makes no representation with respect to the effect of a renunciation on a person's eligibility for receipt of any state or federal benefits, or for participation in any private, local, state, or federal program. Eligibility for or participation in such programs, or eligibility for or receipt of such benefits, is an issue for which the person making the renunciation is solely responsible. Ineligibility for or termination of participation in such programs or benefits shall not affect the irrevocable character of the renunciation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:452 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 33:

Family Impact Statement

As stated above, the proposed amendment of LAC 58.I.2301 concerns the terms and conditions under which a retiree may renounce all or part of his benefit. This regulation should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;

4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., November 30, 2006, to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement System, P.O. Box 44213, Baton Rouge, LA 70804.

Cindy Rougeou
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Renunciation of Benefit**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation costs to state or local governmental units are anticipated to result from the implementation of this rule change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections of state or local governmental units is anticipated to result from the implementation of this rule change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The rule change is directed at those persons who have retired from LASERS and who subsequently seek to renounce their entire benefit. No costs or economic benefits to those persons are anticipated to result from the proposed rule adoption.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition and employment is anticipated to result from the implementation of this rule change.

Cindy Rougeou
Executive Director
0610#067

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Coastwide Nutria Control Program (LAC 76:V.123)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the incentive payment portion of the regulations on the Coastwide Nutria Control Program.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§123. Coastwide Nutria Control Program

A. The Department of Wildlife and Fisheries does hereby establish regulations governing participation in the Coastwide Nutria Control Program. The administrative responsibility for this program shall rest with the Department Secretary; the Assistant Secretary, Office of Wildlife; and the Fur and Refuge Division.

1. The Coastwide Nutria Control Program objective is to provide economic incentive, through an incentive payment to participants, to encourage the harvest of up to 400,000 nutria annually from coastal Louisiana. The incentive payment shall be the amount set by the Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA) Task Force. For the purpose of this program, coastal Louisiana is bounded on the north by Interstate 10 from the Louisiana-Texas line to Baton Rouge, Interstate 12 from Baton Rouge to Slidell, and Interstate 10 to the Louisiana-Mississippi line.

2 - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:2205 (October 2002), amended LR 33:

Family Impact Statement

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments relative to the proposed Rule to Philip Bowman, Administrator, Fur and Refuge Division, Box 98000, Baton Rouge, LA 70898, prior to Thursday, December 7, 2006.

Terry D. Denmon
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Coastwide Nutria Control Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no state or local governmental implementation costs or savings associated with this proposed rule change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will have no impact on revenue collections of state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule change will have no impact on trappers and hunters who participated in the Coastwide Nutria Control Program (CNCP). Participants in the CNCP will be impacted

when the Coastal Wetlands Planning Protection and Restoration Act Task Force make an adjustment to the nutrient economic incentive payment. The impact to participants of the CNCP may be positive or negative depending on the incentive price set and the current costs of harvest.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no effect on competition and employment in the public and private sectors.

Wynette Kees
Deputy Undersecretary
0610#036

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Public Oyster Seed Grounds—Little Lake (LAC 76:VII.521)

The Wildlife and Fisheries Commission does hereby give notice of its intent to designate certain state-owned water bottoms within Jefferson and Lafourche Parishes as the Little Lake Public Oyster Seed Grounds. Authority to establish the Little Lake Public Oyster Seed Grounds is vested in the Wildlife and Fisheries Commission by R.S. 56:6(12) and R.S. 56:434(A).

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oyster

§521. Public Oyster Seed Grounds—Little Lake

A. The Little Lake Public Oyster Seed Grounds is described as that portion of the state-owned water bottoms within the boundary as shown on a map by the Department of Wildlife and Fisheries, dated August 29, 2006, and more particularly described.

1. Beginning at the intersection of the western shoreline of Barataria Waterway and the northern shoreline of Bayou St. Denis at latitude 29 degrees 29 minutes 41.385 seconds North, longitude 90 degrees 01 minutes 12.443 seconds West; thence southerly to a point at latitude 29 degrees 29 minutes 32.297 seconds North, longitude 90 degrees 01 minutes 08.030 seconds West; thence southerly to a point at latitude 29 degrees 29 minutes 23.314 seconds North, longitude 90 degrees 01 minutes 10.035 seconds West; thence southerly to a point at latitude 29 degrees 29 minutes 09.521 seconds North, longitude 90 degrees 01 minutes 15.178 seconds West; thence westerly to a point at latitude 29 degrees 29 minutes 10.637 seconds North, longitude 90 degrees 01 minutes 29.713 seconds West; thence southerly to a point at latitude 29 degrees 28 minutes 33.134 seconds North, longitude 90 degrees 01 minutes 30.449 seconds West; thence westerly to a point at latitude 29 degrees 28 minutes 40.110 seconds North, longitude 90

degrees 03 minutes 27.833 seconds West, thence southerly to a point at latitude 29 degrees 28 minutes 36.574 seconds North, longitude 90 degrees 03 minutes 29.741 seconds West; thence southwesterly to a point at latitude 29 degrees 28 minutes 22.052 seconds North, longitude 90 degrees 03 minutes 56.413 seconds West; thence southwesterly to a point at latitude 29 degrees 28 minutes 20.369 seconds North, longitude 90 degrees 04 minutes 01.526 seconds West; thence westerly to a point at latitude 29 degrees 28 minutes 19.527 seconds North, longitude 90 degrees 04 minutes 16.811 seconds West; thence westerly to a point at latitude 29 degrees 28 minutes 19.340 seconds North, longitude 90 degrees 04 minutes 23.149 seconds West; thence southwesterly to a point at latitude 29 degrees 28 minutes 12.363 seconds North, longitude 90 degrees 04 minutes 28.498 seconds West; thence westerly to a point at latitude 29 degrees 28 minutes 13.253 seconds North, longitude 90 degrees 04 minutes 33.578 seconds West; thence westerly to a point at latitude 29 degrees 28 minutes 13.533 seconds North, longitude 90 degrees 04 minutes 36.968 seconds West; thence southerly to a point at latitude 29 degrees 28 minutes 11.567 seconds North, longitude 90 degrees 04 minutes 38.407 seconds West; thence southerly to a point at latitude 29 degrees 28 minutes 05.627 seconds North, longitude 90 degrees 04 minutes 38.482 seconds West; thence southerly to a point at latitude 29 degrees 27 minutes 58.698 seconds North, longitude 90 degrees 04 minutes 38.568 seconds West; thence westerly to a point at latitude 29 degrees 27 minutes 55.110 seconds North, longitude 90 degrees 04 minutes 46.543 seconds West; thence westerly to a point at latitude 29 degrees 27 minutes 52.581 seconds North, longitude 90 degrees 05 minutes 06.066 seconds West; thence southerly to a point at latitude 29 degrees 27 minutes 48.538 seconds North, longitude 90 degrees 05 minutes 03.132 seconds West; thence easterly to a point at latitude 29 degrees 27 minutes 49.851 seconds North, longitude 90 degrees 04 minutes 45.184 seconds West; thence southerly to a point at latitude 29 degrees 27 minutes 37.031 seconds North, longitude 90 degrees 04 minutes 37.154 seconds West; thence southerly to a point at latitude 29 degrees 27 minutes 36.560 seconds North, longitude 90 degrees 04 minutes 36.658 seconds West; thence southerly to a point at latitude 29 degrees 27 minutes 24.833 seconds North, longitude 90 degrees 04 minutes 38.534 seconds West; thence southerly to a point at latitude 29 degrees 27 minutes 18.564 seconds North, longitude 90 degrees 04 minutes 37.351 seconds West; thence westerly to a point at latitude 29 degrees 27 minutes 23.151 seconds North, longitude 90 degrees 04 minutes 54.963 seconds West; thence southwesterly to a point at latitude 29 degrees 27 minutes 11.170 seconds North, longitude 90 degrees 05 minutes 08.473 seconds West; thence southerly to a point at latitude 29 degrees 27 minutes 06.634 seconds North, longitude 90 degrees 05 minutes 08.198 seconds West; thence southwesterly to a point on the southern shoreline of Little Lake at latitude 29 degrees 27 minutes 03.038 seconds North, longitude 90 degrees 05 minutes 14.223 seconds West; thence westerly along the shoreline of Little Lake to the intersection of the western shoreline of Little Lake and the southern shoreline of Bay L'ours at latitude 29 degrees 30 minutes 02.067 seconds North, longitude 90 degrees 12 minutes 02.839 seconds West; thence westerly along the

shoreline of Bay L'ours to the intersection of the northern shoreline of Bay L'ours and the western shoreline of Little Lake at latitude 29 degrees 31 minutes 05.281 seconds North, longitude 90 degrees 11 minutes 51.880 seconds West; thence northerly along the western shoreline of Little Lake to the intersection of the northern shoreline of Little Lake and the western shoreline of Bayou Perot at latitude 29 degrees 34 minutes 11.659 seconds North, longitude 90 degrees 10 minutes 13.934 seconds West; thence northerly along the western shoreline of Bayou Perot to a point on the western shoreline of Bayou Perot at latitude 29 degrees 34 minutes 40.000 seconds North, longitude 90 degrees 10 minutes 08.000 seconds West; thence east to a point on the eastern shoreline of Bayou Perot at latitude 29 degrees 34 minutes 40.000 seconds North, longitude 90 degrees 09 minutes 20.000 seconds West; thence southerly along the eastern shoreline of Bayou Perot to the intersection of the eastern shoreline of Bayou Perot and the northern shoreline of Little Lake at latitude 29 degrees 33 minutes 55.686 seconds North, longitude 90 degrees 10 minutes 18.146 seconds West; thence southeasterly along the northern shoreline of Little Lake to the intersection of the northern shoreline of Little Lake and the western shoreline of Turtle Bay at latitude 29 degrees 31 minutes 57.674 seconds North, longitude 90 degrees 08 minutes 55.092 seconds West; thence northeasterly along the shoreline of Turtle Bay to the intersection of the eastern shoreline of Turtle Bay and the northern shoreline of Little Lake at latitude 29 degrees 31 minutes 55.937 seconds North, longitude 90 degrees 06 minutes 28.544 seconds West; thence southeasterly along the northern shoreline of Little Lake to a point on the northern shoreline of Little Lake at latitude 29 degrees 31 minutes 28.031 seconds North, longitude 90 degrees 05 minutes 14.708 seconds West; thence southeasterly to the intersection of the eastern shoreline of Little Lake and the northern shoreline of Bayou St. Denis at latitude 29 degrees 31 minutes 20.272 seconds North, longitude 90 degrees 04 minutes 50.608 seconds West; thence southeasterly along the northern shoreline of Bayou St. Denis to the point of beginning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(12) and R.S. 56:434(A).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 33:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out in R.S. 49:972(B).

Interested persons may submit written comments relative to the proposed Rule until 4:30 p.m., Thursday, December 7, 2006 to Patrick D. Banks, Department of Wildlife and Fisheries, Marine Fisheries Division, Box 98000, Baton Rouge, LA 70898-9000.

Terry D. Denmon
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Public Oyster Seed Grounds Little Lake

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

No implementation costs or savings to state or local governmental units are anticipated. A slight increase in workload and paperwork to the state is anticipated to be incurred from monitoring the proposed new public oyster seed grounds.

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

Revenue collections of state and local governmental units are anticipated to be positively impacted by the proposed rule. The magnitude of the impact cannot be determined at this time.

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

The creation of the Little Lake Oyster Seed Grounds is anticipated to provide additional oyster resources for harvest and positive economic benefits to Louisiana oyster harvesters and businesses operating in the area. The magnitude of these impacts cannot be determined at this time and will depend on the additional number of oysters harvested from the proposed new public oyster seed grounds.

Non-governmental entities that impact public oyster seed grounds will be subject to R.S. 56:434.1 (Public Oyster Seed Ground Development Account). They will be required to restore the public oyster seed grounds as compensation for impacts associated with activities occurring on or over the public oyster seed grounds. The magnitude of the economic impacts to non-governmental entities cannot be determined at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on competition or employment.

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