

# Notices of Intent

## NOTICE OF INTENT

### Department of Civil Service Civil Service Commission

#### Payment for Attainment of Advanced Degree; Rewards and Recognition

The State Civil Service Commission will hold a public hearing on Wednesday, February 7, 2007 to consider the following rule proposals. The hearing will begin at 9 a.m. and will be held in the Louisiana Purchase Room Suite 1-100, Claiborne Building, 1201 North Third Street, Baton Rouge, LA.

The following will be considered at the meeting.

#### **Create Rule 6.16(h)**

#### **Proposed Rule 6.16(h): Payment for Attainment of an Advanced Degree**

An appointing authority may approve a base pay increase of up to 10 percent for a permanent employee who attains a job related Master's Degree, Ph.D., or their equivalent from an accredited college or university while employed at the Department, provided that a Department policy has been approved by the Civil Service Commission and the employee was not previously rewarded for attainment of the degree under another rule.

#### **Explanation**

This rule provides a vehicle for agencies wishing to reward employees who have attained advanced education in a field of study related to their job. Currently, an Appointing Authority may grant payment for advanced degrees under Civil Service Rule 6.16(c) Special Pay Provision, provided the Civil Service Commission has approved a policy for the agency's use. This proposed rule clarifies that there is a provision for Payment for Attainment of an Advanced Degree, and establishes the parameter for its use.

#### **Amend Rule 6.16.1**

#### **Current Rule: Rewards and Recognition**

Subject to the provisions of Rule 6.29, an appointing authority may, at his discretion, implement a program of rewards and recognition for individual employees or for employee groups for significant achievement. Such rewards may be either monetary or non-monetary. If monetary, such rewards shall not exceed a total of 9 percent of the employee's base salary within a fiscal year. Monetary rewards shall not be a part of the employee's base pay, but rather shall be a lump sum reward. Such reward and recognition programs shall be implemented in accordance with written policies and procedures established by each department. Such policies must receive advance approval from the Civil Service Commission and shall be posted in a manner that assures their availability to all employees. Such policies shall also include the public posting of all reward recipients.

#### **Proposed Amendment to Rule 6.16.1 (changes shown in bold italics)**

Subject to the provisions of Rule 6.29, an appointing authority may, at his discretion, implement a program of rewards and recognition for individual employees or for employee groups for significant achievement. Such rewards may be either monetary or non-monetary. If monetary, such rewards shall not exceed a total of ***10 percent*** of the employee's base salary within a fiscal year. Monetary rewards shall not be a part of the employee's base pay, but rather shall be a lump sum reward. Such reward and recognition programs shall be implemented in accordance with written policies and procedures established by each department. Such policies must receive advance approval from the Civil Service Commission and shall be posted in a manner that assures their availability to all employees. Such policies shall also include the public posting of all reward recipients.

#### **Explanation**

Appointing authorities may grant an additional 1 percent for Rewards and Recognition. The cap for a lump sum payment would be revised from 9 percent to 10 percent of the employee's base salary.

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

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

Anne S. Soileau  
Director

0701#023

## NOTICE OF INTENT

### Department of Civil Service Civil Service Commission

#### Reassignment; Noncompetitive Re-employment

The State Civil Service Commission will hold a public hearing on Wednesday, February 7, 2007 to consider the following rule proposal. The hearing will begin at 9 a.m. and will be held in the Louisiana Purchase Room Suite 1-100, Claiborne Building, 1201 North Third Street, Baton Rouge, LA.

The following will be considered at the meeting.

#### **Explanation for Proposed Amendment to C.S. Rule 1.33**

The proposed amendment to the definition of reassignment is necessary due to the change in Rule 8.16(a). See proposed rule change to 8.16(a) below.

**Current C.S. Rule 1.33**

**Reassignment**—means the change within the same department of a probationary or permanent employee from a position in one job to another position in a different job, both jobs of which have the same *pay range*.

**Proposed Amendment to C.S. Rule 1.33 (changes shown in bold italics)**

**Reassignment**—means the change within the same department of a probationary or permanent employee from a position in one job to another position in a different job, both jobs of which have the same *maximum rate of pay*.

**Explanation for Proposed Amendment to C.S. Rule 8.16(a)**

The change to 8.16(a) will change the determination of reassignment from the minimum of the job to the maximum of the job. The maximum of the job is a truer reflection of the worth of the job than is the range minimum. This will make the reassignment rule consistent with the rule on promotions.

**Current C.S. Rule 8.16(a) Reassignment**

An appointing authority may reassign any probationary or permanent employee to a position with a different job title that has the same *minimum entrance* rate of pay, provided the employee meets the qualification requirements of the job to which he is being assigned and has met Civil Service requirements for testing and competition.

**Proposed Amendment to Rule 8.16(a) (changes shown in bold italics)**

An appointing authority may reassign any probationary or permanent employee to a position with a different job title that has the same *maximum* rate of pay, provided the employee meets the qualification requirements of the job to which he is being assigned and has met Civil Service requirements for testing and competition.

**Explanation of Proposed Amendment to C.S. Rule 8.18**

The proposed change to 8.18 redefines the determination of when a former employee can be noncompetitively reemployed. Determination will be partially based on whether the job has the same or lower maximum salary instead of the same or lower entrance salary. The maximum of the job is a truer reflection of the worth of the job than is the range minimum. This will make the noncompetitive reemployment rule consistent with the rule on promotions.

**Current C.S. Rule 8.18 Noncompetitive Reemployment Based on Prior State Service**

a) Subject to the provisions of Subsections (d), (e) and (f) hereof and with the approval of the Director, a former permanent employee who has been separated from the classified service may, within ten years from separation, be noncompetitively reemployed in any job for which he is qualified and which has the same or lower *entrance* salary as the current *minimum* for the job in which he had permanent status. Further, if the job in which an employee or former employee held permanent status undergoes a change in title, other than an upward reallocation of the position after the employee separated from it, or undergoes a change in minimum qualification requirements, he shall not lose his reemployment eligibility for such position or lower position in the same job series, if such exists, except where the qualification lacking is one required by law or under a

recognized accreditation program. In this case eligibility remains, even if the *entrance* pay has moved upward. Further, he shall be eligible to be reemployed in any other job at the same or lower current *entrance* pay as the job to which his position changed in title, provided he meets the minimum qualification requirements.

**Proposed Amendment to Rule 8.18 (changes shown in bold italics)**

(a) Subject to the provisions of Subsections (d), (e) and (f) hereof and with the approval of the Director, a former permanent employee who has been separated from the classified service may, within ten years from separation, be noncompetitively reemployed in any job for which he is qualified and which has the same or lower *maximum* salary as the current *maximum* for the job in which he had permanent status. Further, if the job in which an employee or former employee held permanent status undergoes a change in title, other than an upward reallocation of the position after the employee separated from it, or undergoes a change in minimum qualification requirements, he shall not lose his reemployment eligibility for such position or lower position in the same job series, if such exists, except where the qualification lacking is one required by law or under a recognized accreditation program. In this case eligibility remains, even if the *maximum* pay has moved upward. Further, he shall be eligible to be reemployed in any other job at the same or lower current *maximum* pay as the job to which his position changed in title, provided he meets the minimum qualification requirements.

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

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

Anne S. Soileau  
Director

0701#024

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School Administrators—Adoption Awareness (LAC 28: CXV.2347)

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*, §2347, Health Education. The revision to §2347 results from Act 571 of the 2006 Louisiana Legislative Session, which requires that adoption awareness be included in Health Education or any other course determined by BESE to be more appropriate. Adoption awareness shall include instruction on the benefits of adoption for families wishing to add a child, for potential adoptees, and for persons who are pregnant or who have a child for whom they are unable to care.

**Title 28  
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for  
School Administrators**

**Chapter 23. Curriculum and Instruction  
§2347. Health Education**

A. The health education course offerings shall be as follows.

Course Title(s)	Units
Health Education	1/2

B. Cardiopulmonary resuscitation (CPR) shall be taught.

C. Health Education shall include instruction in adoption awareness. Adoption awareness shall include instruction on the benefits of adoption for families wishing to add a child, for potential adoptees, and for persons who are pregnant or who have a child for whom they are unable to care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:263.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:

**Family Impact Statement**

In accordance with Sections 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., March 11, 2007, 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—Adoption Awareness**

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

The implementation of changes requires no cost or savings to state or local governmental units. The revision to §2347 results from Act 571 of the 2006 Louisiana Legislative Session,

which requires that adoption awareness be included in Health Education or any other course determined by the Board of Elementary and Secondary Education to be more appropriate.

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

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

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

There will be no costs or economic benefits to schools or school districts.

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

There will be no effect on competition and employment.

Beth Scioneaux  
Acting Deputy Superintendent  
Management and Finance  
0701#084

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 741 (Nonpublic)—Louisiana Handbook for  
Nonpublic School Administrators—Adoption Awareness  
(LAC 28:LXXIX.2301)

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 Nonpublic Bulletin 741, *Louisiana Handbook for Nonpublic School Administrators*, §2301, General. The revision to §2301 results from Act 571 of the 2006 Louisiana Legislative Session, which requires that adoption awareness be required instruction in nonpublic high schools in a manner that is the sole discretion of the nonpublic high school. Adoption awareness shall include instruction on the benefits of adoption for families wishing to add a child, for potential adoptees, and for persons who are pregnant or who have a child for whom they are unable to care.

**Title 28  
EDUCATION**

**Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana  
Handbook for Nonpublic School Administrators**

**Chapter 23. High School Program of Studies  
§2301. General**

A. The high school shall provide a comprehensive college preparatory and/or vocational curriculum.

B. Adoption awareness shall be required instruction in nonpublic high schools in a manner that is the sole discretion of the nonpublic high school. Adoption awareness shall include instruction on the benefits of adoption for families wishing to add a child, for potential adoptees, and for persons who are pregnant or who have a child for whom they are unable to care.

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: 263; R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2353 (November 2003), amended LR 31:3085 (December 2005), 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., March 11, 2007, 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 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators—Adoption Awareness**

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

The implementation of changes requires no cost or savings to state or local governmental units. The revision to §2301 results from Act 571 of the 2006 Louisiana Legislative Session, which requires that adoption awareness be required instruction in nonpublic high schools in a manner that is the sole discretion of the nonpublic high school.

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

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

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

There will be no costs or economic benefits to schools or school districts.

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

There will be no effect on competition and employment.

Beth Scioneaux  
Acting Deputy Superintendent  
Management and Finance  
0701#087

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—Educational Leader (LAC 28:CXXXI.240, 703, 705, and 707)

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*: §240, Educational Leader Practitioner (Residency) Program, §703, Introduction, §705, Educational Leader Certificate Level 1, and §707, Educational Leader Certificate Level 2. This policy changes the type and level of the teaching certificate required to be certified as an Educational Leader Level 1 and also changes the required number of years of teaching experience from five to three years. The new policy will also allow for two new alternate paths of certification for Educational Leader Level 1 applicants. The revised policy will enhance the current educational leadership certification policy and will allow individuals to pursue certification as an educational leader through multiple standards-based, research-based pathways.

#### Title 28 EDUCATION

#### Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel Chapter 2. Louisiana Teacher Preparation Programs §240. Educational Leader Practitioner (Residency) Program

A. State-approved private providers and Louisiana colleges or universities may choose to offer an Educational Leader Practitioner (Residency) Program for purposes of certifying successful candidates for Educational Leader Level 1 certification. Educational Leader Practitioner Program providers must submit a program proposal to the Louisiana Department of Education, Division of Certification and Preparation. Programs will be reviewed for adherence to program guidelines, and those meeting guidelines will be recommended to the Board of Elementary and Secondary Education for approval status. The Educational Leader Practitioner Program is a streamlined certification path that combines intensive coursework and practical, on-the-job experience.

1. Admission to the Program. Program providers work with local educational agency or state/district-approved charter school personnel to identify Educational Leader Practitioner Program candidates who will be employed by the local educational agency or approved charter school (hereinafter referred to as hiring authority). For admission, candidates must:

a. possess a baccalaureate degree from an accredited university;

b. have three years of K-12 teaching experience and demonstrate strong knowledge of instruction through a rigorous screening process by an approved program provider in partnership with one or more hiring authorities;

c. hold or be eligible to hold a valid Louisiana Type B or Level 2 teaching certificate or have a comparable level out-of-state teaching certificate;

d. meet other non-course requirements established by the approved leader practitioner program;

i. candidates will be chosen using a rigorous selection process designed to determine the potential of candidates as school leaders. The screening process for each cohort will involve a multi-phase process that includes, as a minimum, a written application, recommendations, and interviews.

#### 2. Leader Preparation (First Summer)

a. All leader practitioner candidates will participate in an initial summer institute training that will build skills in the areas of instructional, organizational, and personal leadership. The *Standards for Educational Leaders in Louisiana* will serve as the basis of the curriculum. The summer institute will provide a balanced curriculum that includes learning opportunities grounded in practical experience, theory, and research. Topics to be addressed include but are not limited to the following: Leading with a Vision, Using Data to Lead School Improvement, Creating and Leading Effective School Teams, Building a High-Performance Learning Culture and Professional Learning Communities, and Leading and Learning with Technology. Acquired knowledge and skills will be utilized in the planning of residency experiences with a residency supervisor, who is assigned by the program provider. In addition, participants will begin developing their portfolio and Educational Leadership Development plan.

b. The summer session will include a minimum of 135 contact hours (or 9 credit hours).

#### 3. Principal Residency and Support (School Year)

a. Candidates assume positions as administrative interns (with responsibilities equivalent to that of an Assistant Principal). The hiring authority pays the candidate's salary.

b. Interns will serve in at least two different schools, and will experience a full range of activities associated with all phases of school administration. In school experiences should provide for a minimum of 125 days in the school.

c. During the school year, candidates participate in weekly sessions provided by the program provider and in four seminars (two during the first semester and two during the second semester) that address immediate needs of the practitioner leader. Weekly sessions and seminars should provide for a minimum of 60 contact hours (or 4 credit hours).

d. Practitioner leaders receive one-on-one supervision through a residency supervisor provided by the program providers.

e. Practitioner leaders will receive support from a school-based principal mentor identified by the hiring authority and the program provider, and a principal coach provided by the program provider. Hiring authorities and providers will collaborate to identify appropriate site for placement of an intern at a school and with a strong principal who serves as the school-based mentor. Additionally, the provider identifies and trains principal coaches (e.g., former principals, retired principals) who support one or more candidates.

#### 4. Leader Preparation (Second Summer)

a. All leader practitioner candidates will participate in a follow-up summer institute training that will continue to build skills in the areas of instructional and organizational leadership. The *Standards for Educational Leaders in Louisiana* will serve as the basis of the curriculum. The summer institute will provide a balanced curriculum that includes learning opportunities grounded in practical experience, theory, and research. Topics to be addressed include but are not limited to the following: Leading a Focused Drive toward Student Achievement, Organizing the Learning Environment, and Ethical Leadership. In addition, program participants will finalize their portfolio and Educational Leadership Development plan.

b. The summer session will include 135 contact hours (or 9 credit hours).

i. An approved program provider may choose to provide a portion of the second summer curriculum and contact hours during the first summer or academic school year.

ii. A minimum of 45 contact hours (or 3 credit hours) must be provided during the second summer.

iii. The provider must provide evidence that the curriculum topics have all been addressed and that the required contact hours/credit hours have been met by the end of the second summer.

#### 5. Practitioner Leader Performance Review (Mid-Year and End of Program)

a. Program providers, mentor principals, and principal coaches form teams to review mid-year performance of practitioner leaders and determine the extent to which the practitioner leader has demonstrated educational leadership proficiency. If weaknesses are cited, teams will identify additional types of support to address areas of needs.

b. Program providers, mentor principals, and principal coaches form teams to review end-of-program performance of practitioner leaders and determine the extent to which the aspiring leader has demonstrated educational leadership proficiency and readiness for the Educational Leader Level 1 certification.

6. Total Hours Required. Minimum of 330 contact hours of coursework (22 credit hours) and minimum of 125 days serving as practitioner leader (administrative intern).

7. Passage of School Licensure Exam. Have a passing score on the School Leaders Licensure Assessment (SLLA) in accordance with state requirements.

8. Program requirements must be met by the end of the second summer session. For certification purposes, approved providers will submit signed statements to the Department of Education indicating that the student completing the Educational Leader Practitioner Program performance-based certification path met the following requirements:

a. passed the School Leaders Licensure Assessment;

b. completed all program coursework (summers and school year) and the residency;

c. completed prescriptive plans (if weaknesses were demonstrated);

d. demonstrate readiness for the educational leader based on performance against the *Standards for Educational*

*Leaders in Louisiana* and approved program provider indicators of skills needed for educational leader success;

e. completed an Educational Leadership Development plan (an individualized learning plan that outlines areas of development in each of the *Standards for Educational Leaders in Louisiana*;

f. completed a portfolio demonstrating skills needed to collaborate with teachers and use data to increase student achievement; successfully observe, evaluate, and provide feedback to teachers to improve student achievement; and lead the school or a portion of the school through a change process that helps to build a positive school community.

9. On-Going Support (Second and Third Year). Program providers will give support services to educational leaders who have completed the practitioner leader program and are serving as school leaders during their second and third years in the program. Support services are coordinated with the state-administered Louisiana Education Leaders Induction Program and include regular visits to their schools from a successful, veteran principal who provides feedback and coaching and leads regular cohort meetings.

10. Professional License. Upon completion of all requirements of the program, the candidate will receive an Educational Leader Level 1 license.

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:

## **Chapter 7. Administrative and Supervisory Credentials**

### **Subchapter A. The Educational Leadership Certification Structure—Effective July 1, 2006**

#### **§703. Introduction**

A. The Educational Leadership Certification structure, effective July 1, 2006, provides for four levels of leader certification: Teacher Leader; Educational Leader Level 1; Educational Leader Level 2; and Educational Leader Level 3. The Teacher Leader Endorsement is an option for a teacher to be identified as a teacher leader; it is not a state required credential for a specific administrative position. The Educational Leader Level 1 license is an entry-level license for individuals seeking to qualify for school and/or district leadership positions (e.g., assistant principals, principals, parish or city supervisors of instruction, supervisors of child welfare and attendance, special education supervisors, or comparable school/district leader positions). An individual moves from a Level 1 to a Level 2 license upon completion of the Educational Leader Induction Program and the required years of experience. The Level 3 license qualifies an individual for employment as a district superintendent.

B. Educational leadership preparation programs, induction programs, and continuing learning units required for re-licensure are aligned with the following state and national standards:

1. Standards for Educational Leaders in Louisiana;
2. Interstate School Leaders License Consortium [ISLLC] Standards for School Leaders; and
3. Educational Leadership Constituent Council [ELCC] Standards for Advanced Programs in Educational Leadership, the standards used by the National Council for

the Accreditation of Colleges of Teachers Evaluation [NCATE] for university program reviews.

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 32:1822 (October 2006), amended LR 33:

#### **§705. Educational Leader Certificate Level 1**

A. This is the certification authorization needed by those who fill school and district educational leadership positions (e.g., assistant principal, principal, parish or city supervisor of instruction, supervisor of child welfare and attendance, special education supervisor, or comparable school/district leader positions). This endorsement is valid for five years and is renewable every five years based upon successful completion and verification of required continuing learning units. An Educational Leader Certificate Level 1 may be obtained through either a master's degree path or through an alternate path.

1. Master's Degree Path. To receive an entry-level certificate in educational leadership, the candidate must:

a. hold or be eligible to hold a valid Louisiana Type B or Level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience in his/her area of certification;

b. complete a competency-based graduate degree preparation program in the area of educational leadership from a regionally accredited institution of higher education; and

c. have a passing score on the School Leaders Licensure Assessment (SLLA), in accordance with state requirements.

2. Alternate Path 1. Three alternate paths are available to individuals seeking an Educational Leader Certificate Level 1. The Alternate Path 1 is for persons who already hold a master's degree and are seeking to add Educational Leader certification to a valid teaching certificate:

a. hold or be eligible to hold a valid Louisiana Type B or Level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience in his/her area of certification;

b. have previously completed a graduate degree program from a regionally accredited institution of higher education;

c. meet competency-based requirements, as demonstrated by completion of an individualized program of educational leadership from a regionally accredited institution of higher education. An individualized program will be developed based on a screening of each candidate's competencies upon entering into the graduate alternative certification program; and

d. have a passing score on the School Leaders Licensure Assessment (SLLA) in accordance with state requirements.

3. Alternate Path 2. Three alternate paths are available to individuals seeking an Educational Leader Certificate Level 1. The Alternate Path 2 is for persons who already hold a master's degree in education and are seeking to add Educational Leader certification to a valid teaching certificate:

a. hold or be eligible to hold a valid Louisiana Type B or Level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience in his/her area of certification;

b. have previously completed a graduate degree program in education from a regionally accredited institution of higher education;

c. provide documented evidence of leadership experiences (240 clock hours or more) at the school and/or district level; and

d. have a passing score on the School Leaders Licensure Assessment (SLLA) in accordance with state requirements.

4. Alternate Path 3. Three alternate paths are available to individuals seeking an Educational Leader Certificate Level 1. The Alternate Path 3 is for persons who already hold a baccalaureate degree from a regionally accredited institution of higher education and are seeking to add Educational Leader certification to a valid teaching certificate through a competency-based educational leader practitioner (residency) program (See Chapter 2, §240):

a. hold or be eligible to hold a valid Louisiana Type B or Level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience in his/her area of certification;

b. demonstrate strong knowledge of instruction through a rigorous screening process by an approved program provider;

c. complete a competency-based educational leader practitioner/residency preparation program in the area of educational leadership from a state-approved private provider or a regionally accredited institution of higher education; and

d. have a passing score on the School Leaders Licensure Assessment (SLLA) in accordance with state requirements.

5. Renewal Requirements. For purposes of maintaining a valid endorsement, holders of an Educational Leader Level 1 endorsement are required to complete 150 continuing learning units of professional development consistent with the Individual Professional Growth Plan (IPGP) over a five-year time period. The starting date of the five-year cycle depends on the type of teaching certificate that the individual holds.

a. If an individual holds a Louisiana Professional Teaching Certificate Level 2, then the renewal date is tied to the renewal date on the professional teaching certificate.

b. If an individual holds a Louisiana Type B Teaching Certificate or a comparable level out-of-state teaching certificate, then the renewal time period begins with the date of issue of the Educational Leader Level 1 endorsement.

6. Upon employment as a school/district educational leader, an individual with an Educational Leader Level 1 endorsement must enroll in the state-approved Educational Leader Induction Program under the direction of the Louisiana Department of Education. Once employed as a school/district educational leader, the individual has three years to complete the induction program.

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 32:1823 (October 2006), amended LR 33:

### **§707. Educational Leader Certificate Level 2**

A. This endorsement is valid for five years and is renewable every five years based upon successful completion and verification of required continuing learning units.

1. To receive an Educational Leader Certificate Level 2, the individual must:

a. hold a valid Level 1 Educational Leader certificate, Louisiana provisional principal certification, or comparable level out-of-state educational leader certificate;

b. have three years of teaching experience in his/her area(s) of certification;

c. have completed the Educational Leader Induction Program under the administration of the Louisiana Department of Education:

i. the induction period begins upon the candidate's first full-time administrative appointment (permanent or acting) as an assistant principal, principal, parish or city supervisor of instruction, supervisor of child welfare and attendance, or comparable school/district leader position;

ii. the Educational Leader Induction Program must be completed within a three-year period;

d. have three years of educational leadership experience at the level of assistant principal or above.

2. Renewal Requirements. For purposes of maintaining a valid endorsement, holders of an Educational Leader Level 2 endorsement are required to complete 150 continuing learning units of professional development consistent with the Individual Professional Growth Plan (IPGP) over a five-year time period. The starting date of the five-year cycle depends on the type of teaching certificate that the individual holds.

a. If an individual holds a Louisiana Professional Teaching Certificate Level 2, then the renewal date is tied to the renewal date on the professional teaching certificate.

b. If an individual does not hold a Louisiana Professional Teaching Certificate Level 2, but does hold an Educational Leader Level 1 endorsement, then the renewal date is tied to the renewal date on the Educational Leader Level 1 endorsement.

c. If an individual holds neither a Louisiana Professional Teaching Certificate Level 2 nor an Educational Leader Level 1 endorsement, then the renewal time period begins with the date of issue of the Educational Leader Level 2 endorsement.

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 32:1823 (October 2006), 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 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., March 11, 2007, 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: Louisiana Standards for State  
Certification of School Personnel—Educational Leader**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
This policy changes the type and level of the teaching certificate required to be certified as an Educational Leader Level 1, and also changes the required number of years of teaching experience from five to three years. The new policy will also allow for two new alternate paths of certification for Educational Leader Level 1 applicants. 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 Director  
0701#086

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—Special Education Program Deadline Extension (LAC 28:CXXXI.225 and 231)

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*, §225. Minimum Requirements for Approved Early Interventionist Special Education Birth to Five Years Program, and §231. Introduction. This policy extends the deadline date from January 1, 2007, to July 1, 2007, for special education programs in Early Interventionist Special Education Birth to Five Years, Significant Disabilities, Hearing Impaired, and Visually Impaired. This extension will allow campuses to continue offering their existing special education programs during spring 2007. This extension will provide students additional time to complete the special education programs currently in place. This policy change is requested so that university programs in special education areas can be reviewed for approval.

**Title 28**

**EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel  
Chapter 2. Louisiana Teacher Preparation Programs  
Subchapter A. Traditional Teacher Preparation Programs**

**§225. Minimum Requirements for Approved Early Interventionist Special Education Birth to Five Years Program: Adopted November 18, 2004; Effective July 1, 2007**

\* \* \*

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 32:1789 (October 2006), amended LR 33:

**Subchapter B. Alternate Teacher Preparation Programs  
§231. Introduction**

A. - D. ...

1. July 1, 2007—last date for candidates to be accepted into Post-Baccalaureate Programs.

2. August 31, 2010—last date for candidates who are already in Post-Baccalaureate Programs to complete those programs.

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 32:1790 (October 2006), 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 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., March 11, 2007, 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—Special Education Program Deadline Extension**

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

This policy extends the deadline date from January 1, 2007 to July 1, 2007 for special education programs in Early Interventionist Special Education Birth to Five Years, Significant Disabilities, Hearing Impaired, and Visually Impaired. This extension will allow campuses to continue offering their existing special education programs during spring 2007. This extension will provide students additional time to complete the special education programs currently in place. 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  
Management and Finance  
0701#085

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

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

CAIR NO<sub>x</sub> Trading Programs (LAC 33:III.506) (AQ261)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.506 (Log #AQ261).

The Clean Air Interstate Rule (CAIR) was promulgated by the U.S. Environmental Protection Agency on May 12, 2005. This federal rule addresses ozone and fine particulate air

pollution by regulating emissions of sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>) from electrical generating units (EGUs) in certain states and the District of Columbia. The federal rule establishes a budget cap for each state for emissions of these pollutants and allows for emissions trading. Following promulgation of CAIR in 2005, EPA promulgated a Federal Implementation Plan (FIP) for the rule on April 28, 2006. The FIP, which became effective on June 27, 2006, includes the federal method for allocation of NO<sub>x</sub> allowances. The FIP provides states with an option to submit an abbreviated SIP and limited flexibility in implementation of certain federal rule provisions related to CAIR. Louisiana will remain under the provisions of the FIP for the Annual NO<sub>x</sub> and Ozone Season NO<sub>x</sub> Trading Programs with the exception of the provisions established in this proposed rule.

This proposed rule defines the state's method under the CAIR Annual and Ozone Season NO<sub>x</sub> Trading Programs for allocating NO<sub>x</sub> allowances to EGUs subject to CAIR. Section 51.123 of the federal CAIR allows states some flexibility in implementation of certain rule provisions related to methods for allocating NO<sub>x</sub> allowances. The proposed rule establishes state provisions in lieu of 40 CFR 97, Subpart EE - CAIR NO<sub>x</sub> Allowance Allocations, §97.141 and §97.142, and 40 CFR 97, Subpart EEEE - CAIR NO<sub>x</sub> Ozone Season Allowance Allocations, §97.341 and §97.342. To determine the impact of CAIR implementation on Louisiana electricity ratepayers, DEQ requested assistance from the Louisiana Public Service Commission (LPSC). Pursuant to this request, the LPSC contracted the service of the Louisiana State University Center of Energy Studies. Recommendations concerning the implementation of CAIR in Louisiana were provided to DEQ from the LPSC in a staff paper and supplement. These rule provisions are consistent with the LPSC recommendations. Once promulgated, this rule will be submitted to EPA as a revision to the air quality SIP for Louisiana. The submittal of an approvable abbreviated SIP revision for the CAIR Annual and Ozone Season NO<sub>x</sub> Trading Programs satisfies Louisiana's obligations under Section 110(a)(2)(D)(i) of the Clean Air Act (CAA). This rule is also being proposed as a revision to the Louisiana State Implementation Plan for air quality. The basis and rationale for this proposed rule are to improve air quality through a reduction of intrastate and interstate emissions of NO<sub>x</sub> from EGUs subject to CAIR.

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

## Title 33 ENVIRONMENTAL QUALITY

### Part III. Air

#### Chapter 5. Permit Procedures

##### §506. Clean Air Interstate Rule Requirements

A. Clean Air Interstate Rule (CAIR) Annual Nitrogen Oxide (NO<sub>x</sub>) Program. This Subsection is adopted in lieu of 40 CFR 97.141 and 97.142 as promulgated under the CAIR Federal Implementation Plan (FIP) NO<sub>x</sub> Annual Trading Program on April 28, 2006, at 71 FR 25328. All provisions of 40 CFR Part 97, Subparts AA – HH, continue to apply,

with the exception of §97.141 (Timing Requirements for CAIR NO<sub>x</sub> Allowance Allocations) and §97.142 (CAIR NO<sub>x</sub> Allowance Allocations). The provisions of this Subsection state how the CAIR NO<sub>x</sub> annual allowances will be allocated in accordance with this Section and 40 CFR 97.144(a).

1. Definitions. The terms used in Subsection A of this Section have the meaning given to them in the CAIR FIP (as promulgated on April 28, 2006), except for those terms defined herein as follows.

*Department*—the Louisiana Department of Environmental Quality.

*Independent Power Producer*—the owner or operator of any electricity-generating facility who sells electricity to a utility company.

*LPSC*—the Louisiana Public Service Commission.

*LPSC Certification*—the process under which an electricity-generating facility and/or all of its component units, additions, and up-rated or re-powered units are certified by the Louisiana Public Service Commission (LPSC) as being in the public convenience and necessity. This process includes the certification of long-term contracts that dedicate a portion of the electrical output of any generation facility to a LPSC regulated utility. Long-term contracts include contracts of at least one year in duration, provided that the utility expects to receive power under the contract within one year of the contract execution.

*LPSC Certified Unit*—a unit that has been certified by the LPSC but is not yet in operation.

*LPSC Non-Regulated Facility*—any electricity-generating facility not regulated by the LPSC.

*LPSC Regulated Unit*—a unit regulated by the LPSC that is in operation.

2. Allocation of CAIR Annual NO<sub>x</sub> Allowances. Total NO<sub>x</sub> allowances allocated per control period shall not be in excess of the CAIR annual NO<sub>x</sub> budget as found in 40 CFR 97.140 (35,512 tons per control period from 2009-2014 and 29,593 tons per control period thereafter).

a. Independent Power Producers (IPP) or Cogeneration. For IPP and cogeneration units, the NO<sub>x</sub> allowances shall be equal to the average NO<sub>x</sub> emissions of the three years immediately preceding the year in which the control period allocations are made. The actual NO<sub>x</sub> emissions during normal operations as reported in the emission inventory required by LAC 33:III.919 shall be used, except that the allowances submitted in 2007 shall use the actual NO<sub>x</sub> emissions for calendar years 2002, 2003, and 2004 that were reported to the Federal Acid Rain Program. If three years of operating data do not exist, the average of the last two years of reported NO<sub>x</sub> emissions shall be used. If only one year of operating data exist, the NO<sub>x</sub> allowances shall be equal to that year's actual reported NO<sub>x</sub> emissions.

b. LPSC Certified Unit. A LPSC certified unit shall be allocated allowances for the control period in which the unit will begin operation if the allowances for that control period have not been previously allocated. Until a unit has three years of operating data preceding the allocation submittal deadline, the converted heat input as calculated in Clause A.2.b.i or ii of this Section shall be used to allocate allowances for the unit. The LPSC certified unit shall be treated as a LPSC regulated unit for the purposes of this allocation, except that converted heat input shall be used

instead of adjusted heat input. Converted heat input is calculated as follows.

i. For a coal-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output of the generator(s) served by the unit multiplied by 7,900 Btu/kWh and divided by 1,000,000 Btu/mmBtu. The control period gross electrical output as stated in the documentation presented to the LPSC during the certification process shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the year.

ii. For a non-coal-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output of the generator(s) served by the unit multiplied by 6,675 Btu/kWh and divided by 1,000,000 Btu/mmBtu. The control period gross electrical output as stated in the documentation presented to the LPSC during the certification process shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the year.

c. LPSC Regulated Unit. The department shall allocate CAIR NO<sub>x</sub> allowances to each LPSC regulated CAIR unit by multiplying the CAIR NO<sub>x</sub> budget, minus the allowances allocated under Subparagraph A.2.a of this Section, by the ratio of the adjusted baseline heat input of the LPSC regulated CAIR NO<sub>x</sub> unit to the total amount of adjusted baseline heat input of all LPSC regulated CAIR NO<sub>x</sub> units in the state and rounding to the nearest whole allowance. The adjusted heat input (in mMBTU) used with respect to the CAIR annual NO<sub>x</sub> allowance for each LPSC regulated CAIR NO<sub>x</sub> unit shall be established as follows.

i. The average of the unit's control period adjusted heat input for the three calendar years immediately preceding the deadline for submission of allocations to the administrator shall be used (except that the allocation submitted in 2007 shall use the average of the control period adjusted heat input for calendar years 2002, 2003, and 2004), with the control period adjusted heat input for each year calculated as follows.

(a). If the unit is coal-fired during a year, the unit's control period heat input for that year shall be multiplied by 100 percent.

(b). If the unit is oil-fired during a year, the unit's control period heat input for that year shall be multiplied by 60 percent.

(c). If the unit is not subject to Subclause A.2.c.i.(a) or (b) of this Section, the unit's control period heat input for the year shall be multiplied by 40 percent.

ii. A unit's control period heat input, status as coal-fired or oil-fired, and total tons of NO<sub>x</sub> emissions during a calendar year shall be determined in accordance with 40 CFR Part 75 and reported in accordance with LAC 33:III.919, to the extent the unit was subject to the requirements of 40 CFR Part 75 for the year, or shall be based on the best available data reported to the department for the unit, to the extent the unit was not subject to the requirements of 40 CFR Part 75 for the year.

3. Timing Requirements for CAIR Annual NO<sub>x</sub> Allowance Allocations

a. By April 30, 2007, the department shall submit to the administrator the CAIR annual NO<sub>x</sub> allowance allocations, in a format prescribed by the administrator and in accordance with Paragraph A.2 of this Section, for the control periods in 2009, 2010, and 2011.

b. By October 31, 2008, for the year 2012, and by October 31 of each year thereafter, the department shall submit to the administrator CAIR annual NO<sub>x</sub> allowance allocations, in a format prescribed by the administrator and in accordance with Paragraph A.2 of this Section, for the control period in the fourth year after the year of the applicable deadline for submission under this Section.

B. Clean Air Interstate Rule (CAIR) Nitrogen Oxide (NO<sub>x</sub>) Ozone Season Program. This Subsection is adopted in lieu of 40 CFR 97.341 and 97.342 as promulgated under the CAIR Federal Implementation Plan (FIP) NO<sub>x</sub> Ozone Season Trading Program on April 28, 2006, at 71 FR 25328. All provisions of 40 CFR Part 97, Subparts AAAA – HHHH, continue to apply, with the exception of §97.341 (Timing Requirements for CAIR NO<sub>x</sub> Ozone Season Allowance Allocations) and §97.342 (CAIR NO<sub>x</sub> Ozone Season Allowance Allocations). The provisions of this subsection state how the CAIR NO<sub>x</sub> ozone season allowances will be allocated in accordance with this Section and 40 CFR 97.344(a).

1. Definitions. The terms used in Subsection B of this Section have the meaning given to them in the CAIR FIP (as promulgated on April 28, 2006), except for those terms defined herein as follows.

*Department*—the Louisiana Department of Environmental Quality.

*Independent Power Producer*—the owner or operator of any electricity-generating facility who sells electricity to a utility company.

*LPSC*—the Louisiana Public Service Commission.

*LPSC Certification*—the process under which an electricity-generating facility and/or all of its component units, additions, and up-rated or re-powered units are certified by the Louisiana Public Service Commission (LPSC) as being in the public convenience and necessity. This process includes the certification of long-term contracts that dedicate a portion of the electrical output of any generation facility to a LPSC regulated utility. Long-term contracts include contracts of at least one year in duration, provided that the utility expects to receive power under the contract within one year of the contract execution.

*LPSC Certified Unit*—a unit that has been certified by the LPSC but is not yet in operation.

*LPSC Non-Regulated Facility*—any electricity-generating facility not regulated by the LPSC.

*LPSC Regulated Unit*—a unit regulated by the LPSC that is in operation.

2. Allocation of CAIR Ozone Season NO<sub>x</sub> Allowances. Total NO<sub>x</sub> ozone season allowances allocated per control period shall not be in excess of the CAIR ozone season NO<sub>x</sub> budget as found in 40 CFR 97.340 (17,085 tons per control period from 2009-2014 and 14,238 tons per control period thereafter).

a. Independent Power Producers (IPP) or Cogeneration. For IPP and cogeneration units, the ozone

season NO<sub>x</sub> allowances shall be equal to the average ozone season NO<sub>x</sub> emissions of the three years immediately preceding the year in which the control period allocations are made. The actual ozone season NO<sub>x</sub> emissions during normal business operations as reported in the emission inventory required by LAC 33:III.919 shall be used, except that the ozone season allowances submitted in 2007 shall use the actual ozone season NO<sub>x</sub> emissions for calendar years 2002, 2003, and 2004 that were reported to the Federal Acid Rain Program. If three years of operating data do not exist, the average of the last two years of reported ozone season NO<sub>x</sub> emissions shall be used. If only one year of operating data exist, the ozone season NO<sub>x</sub> allowances shall be equal to that year's actual reported ozone season NO<sub>x</sub> emissions.

b. LPSC Certified Unit. A LPSC certified unit shall be allocated allowances for the ozone season control period in which the unit will begin operation if the allowances for that ozone season control period have not been previously allocated. Until a unit has three years of ozone season operating data preceding the allocation submittal deadline, the converted heat input as calculated in Clause B.2.b.i or ii of this Section shall be used to allocate ozone season allowances for the unit. The LPSC certified unit shall be treated as a LPSC regulated unit for purposes of this allocation, except that ozone season converted heat input will be used instead of ozone season adjusted heat input. Ozone season converted heat input is calculated as follows.

i. For a coal-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output of the generator(s) served by the unit multiplied by 7,900 Btu/kWh and divided by 1,000,000 Btu/mmBtu. The control period gross electrical output as stated in the documentation presented to the LPSC during the certification process shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the year.

ii. For a non-coal-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output of the generator(s) served by the unit multiplied by 6,675 Btu/kWh and divided by 1,000,000 Btu/mmBtu. The control period gross electrical output as stated in the documentation presented to the LPSC during the certification process shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the year.

c. LPSC Regulated Unit. The department shall allocate CAIR ozone season NO<sub>x</sub> allowances to each LPSC regulated CAIR unit by multiplying the CAIR ozone season NO<sub>x</sub> budget, minus the allowances allocated under Subparagraph A.2.a of this Section, by the ratio of the ozone season adjusted baseline heat input of the LPSC regulated CAIR ozone season NO<sub>x</sub> unit to the total amount of ozone season adjusted baseline heat input of all LPSC regulated CAIR ozone season NO<sub>x</sub> units in the state and rounding to the nearest whole allowance. The ozone season adjusted heat input (in mmBTU) used with respect to the CAIR ozone season NO<sub>x</sub> allowance for each LPSC regulated CAIR ozone season NO<sub>x</sub> unit shall be established as follows.

i. The average of the unit's control period ozone season adjusted heat input for the three calendar years immediately preceding the deadline for submission of allocations to the administrator shall be used (except that the allocation submitted in 2007 shall use the average of the control period ozone season adjusted heat input for calendar years 2002, 2003, and 2004), with the control period ozone season adjusted heat input for each year calculated as follows.

(a). If the unit is coal-fired during a year, the unit's control period ozone season heat input for that year shall be multiplied by 100 percent.

(b). If the unit is oil-fired during a year, the unit's control period ozone season heat input for that year shall be multiplied by 60 percent.

(c). If the unit is not subject to Subclause B.2.c.i.(a) or (b) of this Section, the unit's control period ozone season heat input for the year shall be multiplied by 40 percent.

ii. A unit's control period ozone season heat input, status as coal-fired or oil-fired, and total tons of ozone season NO<sub>x</sub> emissions during a calendar year shall be determined in accordance with 40 CFR Part 75 and reported in accordance with LAC 33:III.919, to the extent the unit was subject to the requirements of 40 CFR Part 75 for the year, or shall be based on the best available data reported to the department for the unit, to the extent the unit was not subject to the requirements of 40 CFR Part 75 for the year.

### 3. Timing Requirements for CAIR Ozone Season NO<sub>x</sub> Allowance Allocations

a. By April 30, 2007, the department shall submit to the administrator the CAIR ozone season NO<sub>x</sub> allowance allocations, in a format prescribed by the administrator and in accordance with Paragraph B.2 of this Section, for the control periods in 2009, 2010, and 2011.

b. By October 31, 2008, for the year 2012, and by October 31 of each year thereafter, the department shall submit to the administrator the CAIR ozone season NO<sub>x</sub> allowance allocations, in a format prescribed by the administrator and in accordance with Paragraph B.2 of this Section, for the control period in the fourth year after the year of the applicable deadline for submission under this Section.

C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:1597 (September 2006), amended LR 33:

A public hearing will be held on February 27, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. The hearing will also be for the revision to the State Implementation Plan (SIP) to incorporate this proposed rule. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. 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 AQ261. Such

comments must be received no later than March 6, 2007, 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](mailto: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 AQ261. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://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

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: CAIR NO<sub>x</sub> Trading Programs

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

Implementation costs or savings are expected to be minimal from promulgation of this rule, which is designed only to alter the allocation methodology of the Clean Air Interstate Rule (CAIR) federal implementation plan (FIP) for new nitrogen oxide (NO<sub>x</sub>) trading programs. However, because of the overall federal rule, local governments that own municipal electrical generating units (EGUs) may incur increased costs to comply with the federal CAIR from purchasing emission allowances needed to operate. State and local governmental units as electrical ratepayers may incur additional minimal costs for electricity.

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

Impact on revenue collections is estimated to be nil for state or local governmental units that do not own EGUs subject to the federal rule. Impact on revenue collections of local governmental units owning municipal EGUs is expected to be minimal. These local governmental units may pass costs or savings on to their electrical ratepayers.

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

Implementation of this proposed rule is estimated to increase the average ratepayer's annual electrical cost by \$10.11, as opposed to an increase of \$10.80 per year under implementation of the federal CAIR.

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

It is anticipated that the allowance allocation method in this proposed rule will gradually cause a change in electrical production from older gas-fired units to newer, more efficient coal-fired facilities. This may result in a negative impact on employment for workers at gas-fired EGUs. However, new employment opportunities may arise from the operation of new or replacement EGUs.

Herman Robinson, CPM  
Executive Counsel  
0701#058

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

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

Lead-Based Paint Activities  
(LAC 33:III.2805, 2807, 2809, 2811, and 2813) (AQ262)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.2805, 2807, 2809, 2811, and 2813 (Log #AQ262).

The Louisiana lead-based paint rule is more stringent than the federal rule on several requirements. This rule revision will require accreditation every three years instead of annually. The annual requirement causes reciprocity problems, and as a result, instead of experienced personnel working in Louisiana, the companies send their most inexperienced personnel whose training has not expired according to Louisiana regulations. In addition, the requirement for passing the EPA exam every three years is changed to passing an initial exam. The requirement that training providers must be trained and accredited in all of the disciplines that they teach is burdensome and the training is duplicative. Trainers will be required to attend the basic Supervisor training to stay current with the rules and other program changes. Notification of a training class will be reduced from 10 days to 5 days for initial training, and from 5 days to 2 days for refresher training, with an allowance for 24 hours notification for emergency classes. Licensure requirements are being clarified for child-occupied and target housing contractors, and commercial buildings and steel structures contractors. Notification of projects is reduced from 10 days to 5 days, and emergency notification must be submitted within 24 hours of project start. Most of the projects are for schools, and a 10 day delay is too burdensome. Recordkeeping requirements are being reduced from five years to three years. The basis and rationale for this rule are to mirror federal regulations more closely while maintaining protection for public health.

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 28. Lead-Based Paint

#### Activities—Recognition, Accreditation, Licensure, and Standards for Conducting Lead-Based Paint Activities

#### §2805. Recognition and Standards for Training Providers

A. Application Process. A training provider shall not provide, offer, or claim to provide lead training courses for accreditation purposes without receiving recognition from the department. For a training provider to receive

recognition for itself and its courses from the department, the following procedures shall be followed.

A.1. - B.4.a. ...

b. résumés, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements; and

c. certificates from train-the-trainer courses, lead-specific training courses, and accreditations, as evidence of meeting the training requirements;

5. the training provider shall provide adequate facilities for lecture, course tests, hands-on training, and assessment. This includes providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities as needed;

6. - 6.d....

e. the lead worker course shall consist of a minimum of 16 training hours, with a minimum of eight hours devoted to hands-on training. The minimum curriculum required for this course is established in Paragraph C.5 of this Section;

7. - 9. ...

a. one 1" x 1¼" photograph for the trainee to submit to the department with the application for accreditation;

9.b. - 14.a.iv. ...

b. each refresher course, except for the project designer course, shall last a minimum of eight training hours and shall include a hands-on skills assessment if required in the original course. The project designer refresher course shall last a minimum of four training hours and does not require a hands-on skills assessment;

c. at the completion of the course, the student must pass a course test with a score of 70 percent or better; and

B.15. - E. ...

1. the written notification shall be received by the department at least five days before the start of initial training courses;

2. the written notification shall be received by the department at least two days before the start of refresher training courses;

3. ...

4. in the event that a training course must be scheduled immediately due to an emergency, notification to the department must be made as soon as possible, but no less than 24 hours prior to commencement of the course. Written justification for not notifying the department five working days in advance must be provided with the emergency training request;

5. in the notification, the training provider shall submit to the department the following information:

a. the name of the training course to be taught;

b. the dates and length of the training course;

c. the principal/guest instructors that will be teaching the course;

d. the name and telephone number of the training manager; and

e. the location where the course will be taught; and

6. the training course shall not start before the start date noted on the notification.

F. - G.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation

Protection, Air Quality Division, LR 23:1666 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2337 (November 2002), amended by the Office of Environmental Assessment, LR 30:2804 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2445 (October 2005), LR 33:

### **§2807. Accreditation of Individuals**

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

2. Individuals must be accredited by the department to engage in lead-based paint activities.

3. ...

4. Individuals seeking accreditation in the lead inspector, risk assessor, lead project supervisor, or lead project designer disciplines must pass the applicable state examination given by the department or its proxy. Individuals must pass the state examination, with a score of 70 percent or above. Individuals who fail the state examination will be allowed to take the examination again within a six-month period. Individuals who fail the state examination twice must retake the initial course before they will be allowed to retake the state examination. Anyone who fails the test three times within a six-month period may not apply for testing in that category for 90 days.

A.5. - D.3. ...

4. If the individual fails to receive refresher training within one year after the accreditation expiration date, the individual must complete a refresher training course with a course test and hands-on assessment, as applicable, for the appropriate discipline in order to become recertified.

5. If an individual has not completed a refresher course within three years, the department shall require the applicant to:

a. pass the state lead certification examination in the appropriate discipline; or

b. complete a refresher training course with a course test and hands-on assessment, as applicable.

6. If an individual has not completed a refresher course within five or more years, the department shall require the applicant to complete a refresher training course with a course test and hands-on assessment, as applicable, and pass the state lead certification examination in the appropriate discipline.

E. - E.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1669 (December 1997), amended LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2337 (November 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 33:

### **§2809. Licensure of Lead Contractors**

A. Licensure Requirements

1. In order to bid and/or perform abatement activities, lead contractors must obtain a lead-based paint abatement and removal license from the State of Louisiana Licensing Board for Contractors. Prior to obtaining an initial or renewal license, the lead contractor must submit an application for approval, along with the appropriate fees as required in LAC 33:III.223, to the Office of Environmental

Services, Air Permits Division, and certify to the department that the following criteria have been, or will be, met.

a. For target housing and child-occupied facilities, each qualifying person who conducts lead-based paint activities for the lead contractor is annually accredited as a lead project supervisor in accordance with the provisions of LAC 33:III.2807, and forms LPF-2ci and LPF-2th for each such person have been submitted.

b. For commercial buildings and steel structures, each qualifying person for the lead contractor is certified as a lead supervisor/competent person in accordance with SSPC C-3 or equivalent Occupational Safety and Health Administration (OSHA) competent person training, and form LPF-2ci for each such person has been submitted.

c. The lead contractor has access to at least one disposal site to receive lead-contaminated waste that may be generated by the lead contractor during the term of the license.

d. For target housing and child-occupied facilities, the lead contractor will incorporate the work practice standards in LAC 33:III.2811, and for commercial buildings and steel structures, the lead contractor will adhere to OSHA work practice standards and SSPC requirements, so as to prevent the contamination or recontamination of the environment and protect the public health from the hazards of exposure to lead.

e. The lead contractor possesses a worker protection and medical surveillance program consistent with the requirements of OSHA and/or the state health officer.

f. For target housing and child-occupied facilities, an accredited lead project supervisor will be present at all times during the lead contractor's abatements.

g. For commercial buildings and steel structures, a supervisor who is a certified lead supervisor/competent person in accordance with SSPC C-3 or equivalent OSHA competent person training will be available during commercial lead abatement activities.

h. The lead contractor will maintain all records as required by this Chapter.

2. Once the person receives a letter of approval, he can apply to the State of Louisiana Licensing Board for Contractors to request a license, subject to its approval.

a. Each person who conducts lead-based paint activities for the lead contractor shall be accredited annually in accordance with the provisions of LAC 33:III.2807.

b. The lead contractor shall have access to at least one disposal site to receive lead-contaminated waste that may be generated by the lead contractor during the term of the license.

c. The lead contractor shall incorporate the work practice standards in LAC 33:III.2811 so as to prevent the contamination or recontamination of the environment and protect the public health from the hazards of exposure to lead.

d. The lead contractor shall possess a worker protection and medical surveillance program consistent with the requirements of OSHA and/or the state health officer.

e. An accredited lead project supervisor shall be present at all times during all of the lead contractor's abatements.

f. The lead contractor shall maintain all records as required by this Chapter.

A.3. - B.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1671 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2338 (November 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 33:

**§2811. Work Practice Standards for Conducting Lead-Based Paint Activities for Target Housing and Child-Occupied Facilities**

A. - E.4. ...

a. Regular notification shall be made using a department-approved form and be postmarked or hand-delivered at least five working days prior to beginning any on-site work at the lead abatement project. The notification must be accompanied by the appropriate fees (LAC 33:III.223).

b. The project shall not start before the start date noted on the Lead Project Notification (LPN). The Office of Environmental Services, Air Permits Division, shall be notified if the operation will stop for a day or more during the project time noted on the LPN or if the project has been canceled or postponed. The firm shall also give notice 24 hours before the completion of a project. Notice shall be submitted to the department with written follow-up and fax notification to the appropriate regional office.

c. A notification of less than five working days constitutes an emergency notification and must be submitted within 48 hours of the start of the project. The notification must be accompanied by the appropriate processing fees (LAC 33:III.223).

4.d. - 13. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1672 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), repromulgated LR 27:39 (January 2001), amended LR 28:2338 (November 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 33:

**§2813. Recordkeeping Requirements for Lead-Based Paint Activities**

A. All records, reports, and plans required by this Chapter for inspections, hazard screens, risk assessments, and abatements shall be maintained by the owner of the residence, in the case of target housing, or the owner or operator of a residential dwelling or child-occupied building, and by the contractor or accredited individual who conducted the activities, for at least three years. The contractor or accredited individual shall provide copies of these reports to the owner/operator who contracted for its services. Any person who is required by this Chapter to maintain records may utilize the services of competent organizations such as industry trade associations and employee associations to maintain such records.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1676 (December 1997), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on February 27, 2007, 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 AQ262. Such comments must be received no later than March 6, 2007, 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](mailto: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 AQ262. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://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

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

**RULE TITLE: Lead-Based Paint Activities**

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

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

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

Lead-based paint contractors will benefit from the department omitting the requirement to retake the lead exam every three years. The proposed change will require an initial exam only. No additional costs of any kind will result from the proposed amendment. There will be no effect on revenue collections for lead training providers and trainers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Herman Robinson, CPM  
Executive Counsel  
0701#059

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Miscellaneous Corrections  
(LAC 33:XV.322, 399.Schedule B, and 607) (RP043ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection regulations, LAC 33:XV.322, 399.Schedule B, and 607 (Log #RP043ft).

This proposed rule is identical to federal regulations found in 10 CFR 31.5, and SSRCR, 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 will update the state radiation protection regulations to more closely reflect federal language. LAC 33:XV.322 is being updated to meet a compatibility designation under the agreement state programs. A footnote in Schedule B of LAC 33:XV.399 was inadvertently left out in previous rulemaking and is being corrected in this rule. LAC 33:XV.607 is being updated to more closely reflect current instrumentation used in intraoral dental radiographic systems. The reference to an "open ended" PID (position-indicating device) is removed. The Conference of Radiation Control Program Directors (CRCPD) removed this requirement from the Suggested State Regulations in 1984. The basis and rationale for this proposed rule are to mirror federal regulations and to correct language in the radiation regulations to reflect current practices pertaining to instrumentation used in intraoral dental radiographic systems.

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

**Title 33  
ENVIRONMENTAL QUALITY  
Part XV. Radiation Protection**

**Chapter 3. Licensing of Radioactive Material**

**Subchapter C. General Licenses**

**§322. General Licenses: Radioactive Material Other Than Source Material**

A. - D.3.f. ...

g. except as provided in Subparagraph D.3.h of this Section, transfer or dispose of the device containing radioactive material only by export as provided in 10 CFR Part 110 or by transfer to a specific licensee of the department, the U.S. Nuclear Regulatory Commission, or any other agreement state or licensing state whose specific license authorizes him or her to receive the device and, within 30 days after transfer of a device to a specific licensee, except when the device is transferred to the specific

licensee in order to obtain a replacement device, shall furnish to the Office of Environmental Compliance, Emergency and Radiological Services Division, a report containing:

- i. identification of the device by the manufacturer's name, model number, and serial number, or by the initial transferor's name;
- ii. the name, address, and license number of the person receiving the device; and
- iii. the date of the transfer;

h. ...

i. where the device remains in use at a particular location. In such case the transferor shall give the transferee a copy of this regulation and any safety documents identified in the label on the device and, within 30 days of the transfer, report to the Office of Environmental Compliance, Emergency and Radiological Services Division, the manufacturer's (or the initial transferor's) name; the model number and serial number of the device transferred; the name, mailing address for the location of use, and license number of the transferee; the date of the transfer; and the name and/or position of an individual who may constitute a point of contact between the department and the transferee; or

h.ii. - n. ...

4. The general license in LAC 33:XV.322.D.1 does not authorize the manufacture or import of devices containing radioactive material.

D.5. - J.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), LR 27:1226 (August 2001), LR 30:1663 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2524 (October 2005), LR 32:811 (May 2006), LR 33:

**Subchapter Z. Appendices**

**§399. Schedules A and B, and Appendices A, B, C, D, E, and F**

Schedule A. - Schedule B. ...

Footnotes to Schedule B

Note 1: For purposes of subdivision where a combination of radionuclides is involved, the limit for the combination shall be derived as follows: For each radionuclide, determine the amount possessed, and 1,000 times the amount given in Schedule B for that radionuclide. The sum of the ratios of these two quantities, for all the combinations involved, may not exceed 1.

Example:

$$\frac{\text{Amt. of Radionuclide A possessed}}{1000 \times \text{Schedule B quantity for Radionuclide A}} + \frac{\text{Amt. of Radionuclide B possessed}}{1000 \times \text{Schedule B quantity for Radionuclide B}} \leq 1$$

Note 2: To convert microcuries (µCi) to SI units of kilobecquerels (kBq), multiply the values given in Schedule B by 37.

Example:

$$\text{Zirconium-97 (10 } \mu\text{Ci} \times 37 = 370 \text{ kBq)}$$

Appendix A. - Appendix F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 20:180 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2574 (November 2000), LR 27:1228 (August 2001), amended by the Office of Environmental Assessment, LR 31:46 (January 2005), LR 31:1580 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005), LR 32:820 (May 2006), LR 32:1853 (October 2006), LR 33:

#### **Chapter 6. X-Rays in the Healing Arts**

##### **§607. Intraoral Dental Radiographic Systems**

A. - A.2.a. ...

b. a shielded PID (position-indicating device) shall be used. The shielding shall be equivalent to the requirements of LAC 33:XV.604.A.3; and

2.c. - 8.d. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on February 27, 2007, 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 RP043ft. Such comments must be received no later than February 27, 2007, 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](mailto: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 RP043ft. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://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

0701#061

## **NOTICE OF INTENT**

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

Syngenta Crop Protection Delisting Petition  
(LAC 33:V.4999.Appendix E)(HW094P)

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.4999.Appendix E (Log #HW094P).

Syngenta Crop Protection, Inc., is petitioning to exclude from hazardous waste regulations (delist) ash and scrubber water, derived from on-site incineration of listed hazardous wastes from crop protection product production and product distribution. The delisting program is regulated by LAC 33:V.105, which includes a formal rulemaking process. The applicants who wish to remove a waste from the list of hazardous wastes must submit a petition and satisfy all requirements of LAC 33:V.105. The exclusion, if granted, applies only to incinerator ash and incinerator scrubber water resulting from incineration conducted at Syngenta's St. Gabriel facility. The department has reviewed Syngenta's petition and found it satisfies the delisting requirements. The department used the Delisting Risk Assessment Software (DRAS) in the evaluation of the impact of the petitioned waste on human health and the environment.

Syngenta operates a multi-purpose incinerator (MPI). The MPI is permitted for the incineration of hazardous waste. Incinerator ash and scrubber water are generated following the incineration of hazardous and nonhazardous waste. Syngenta's wastes include EPA hazardous waste codes F001-F005 and F024, K157-K159, and all P and U codes. Syngenta's choice of conditional delisting is based on the operational merits of incineration as a waste management option. Incinerator ash and scrubber water do not contain detectable concentrations of organic constituents. Based on the information submitted by Syngenta, the results of the analytical data, and the results from the DRAS, there was no obvious adverse effect on human health or the environment. The basis and rationale for this proposed rule are to grant the petition on an evaluation of waste-specific information provided by the petitioner.

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 49. Lists of Hazardous Wastes**

#### **§4999. Appendices—Appendix A, B, C, D, and E**

#### **Appendix E. Wastes Excluded under LAC 33:V.105.M**

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

<b>Table 1 - Wastes Excluded</b>
[See Prior Text in Dupont Dow Elastomers, LLC, Laplace, LA - Motiva Enterprises, LLC., Norco, LA, (4)(B)]

<b>Table 1 - Wastes Excluded</b>
<b>Syngenta Crop Protection, Inc., St. Gabriel, LA</b>
Incinerator ash, at a maximum annual generation rate of 3,600 cubic yards per year, and incinerator scrubber water, at a maximum annual generation rate of 420,000 cubic yards per year (approximately 85 million gallons per year), result from incineration at the Syngenta Crop Protection, Inc., facility in St. Gabriel, Louisiana. Syngenta's waste stream includes the United States Environmental Protection Agency (USEPA) hazardous waste codes F001-F005, F024, K157-K159, and all P and U codes. The constituents of concern for these waste codes are listed in LAC 33:V.4901. This exclusion applies only to incinerator ash and incinerator scrubber water resulting from incineration conducted at Syngenta's St. Gabriel facility. Syngenta must implement a testing and management program that meets the following conditions for the exclusion to be valid.
(1). Testing Sample collection and analyses, including quality control (QC) procedures, must be performed according to methods described in <i>Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods, EPA Publication Number SW-846</i> , as incorporated by reference in LAC 33:V.110.
(1)(A). Inorganic Testing During the first 12 consecutive months of this exclusion, Syngenta must collect and analyze one monthly composite sample of the incinerator ash and two grab samples of the scrubber water. Composite samples of incinerator ash must be composed of one grab sample from each of two different days during a representative week of operation. The grab samples of scrubber water must be collected on two different days during a representative week of operation. The monthly samples must be analyzed for the constituents listed in condition (3)(A) prior to disposal of the source incinerator ash and scrubber water. Syngenta must report to the department the unit operating conditions and analytical data (reported in milligrams per liter), including quality control information. If the department and Syngenta concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(A), Syngenta may replace the inorganic testing required in condition (1)(A) with the inorganic testing required in condition (1)(B). Condition (1)(A) shall remain effective until this concurrence is reached.
(1)(B). Subsequent Inorganic Testing After concurrence by the department, Syngenta may substitute the following testing conditions for those in condition (1)(A). Syngenta must continue to monitor operating conditions and analyze quarterly samples representative of normal operations. Syngenta must report to the department the unit operating conditions and analytical data (reported in milligrams per liter), including quality control information. Composite samples of incinerator ash must be composed of one grab sample from each of two different days during a representative week of operation, during the first month of each quarterly period. The grab samples of scrubber water must be collected on two different days during a representative week of operation, during the first month of each quarterly period. These quarterly representative samples of incinerator ash and scrubber water must be analyzed for the constituents listed in condition (3)(A) prior to disposal of the source incinerator ash and scrubber water. If delisting levels for any inorganic constituents listed in condition (3)(A) are exceeded in any quarterly sample, Syngenta must re-institute testing as required in condition (1)(A). Syngenta may, at its discretion, analyze incinerator ash composite samples or scrubber water grab samples gathered more frequently than quarterly to demonstrate that smaller batches of waste are nonhazardous.

<b>Table 1 - Wastes Excluded</b>
<b>Syngenta Crop Protection, Inc., St. Gabriel, LA</b>
(1)(C). Organic Testing During the first 12 consecutive months of this exclusion, Syngenta must collect and analyze monthly one grab sample of incinerator ash and one grab sample of scrubber water. These monthly representative grab samples must be analyzed for the constituents listed in condition (3)(B) prior to disposal of the source incinerator ash and scrubber water. Syngenta must report to the department the incinerator operating conditions and analytical data (reported in milligrams per liter), including quality control information. If the department and Syngenta concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(B), Syngenta may replace the organic testing required in condition (1)(C) with the organic testing required in condition (1)(D). Condition (1)(C) shall remain effective until this concurrence is reached.
(1)(D). Subsequent Organic Testing After concurrence by the department, Syngenta may substitute the following testing conditions for those in condition (1)(C). Syngenta must continue to monitor operating conditions and analyze one quarterly grab sample of incinerator ash and one quarterly grab sample of scrubber water representative of normal operations. Syngenta must report to the department the unit operating conditions and analytical data (reported in milligrams per liter), including quality control information. These quarterly representative grab samples of incinerator ash and scrubber water must be collected during the first month of each quarterly period and analyzed for the constituents listed in condition (3)(B) prior to disposal of the source incinerator ash and scrubber water. If delisting levels for any organic constituents listed in condition (3)(B) are exceeded in the quarterly sample, Syngenta must re-institute testing as required in condition (1)(C). Syngenta may, at its discretion, analyze incinerator ash composite samples or scrubber water grab samples gathered more frequently than quarterly to demonstrate that smaller batches of waste are nonhazardous.
(2). Waste Holding and Handling Syngenta must treat the incinerator ash and scrubber water as hazardous wastes until the verification testing is completed, as specified in conditions (1)(A) - (1)(D), and the incinerator ash and scrubber water have satisfied the delisting criteria, as specified in condition (3). If the levels of constituents in the samples of incinerator ash and scrubber water are below all of the applicable levels set forth in condition (3), then the incinerator ash and scrubber water thereby become nonhazardous solid wastes and may be managed and disposed of in accordance with all applicable solid waste regulations. If hazardous constituent levels in any monthly composite or other representative sample equal or exceed any of the delisting levels set in condition (3), the incinerator ash and scrubber water must be managed and disposed of in accordance with Subtitle C of RCRA until the incinerator ash and scrubber water meet the delisting levels. Syngenta must repeat the analyses for the constituents listed in conditions (3)(A) and (3)(B) prior to disposal.
(3). Delisting Levels Concentrations in conditions (3)(A) and (3)(B) must be measured in an extract from the waste samples by the method specified in LAC 33:V.4903.E. All leachable concentrations in the waste extract must be less than the following levels (all units are milligrams per liter).
(3)(A). Inorganic Constituents (all units are milligram per liter) antimony—0.15; arsenic—0.50; barium—39.0; cadmium—0.11; chromium—5.0; copper—0.50; lead—5.0; nickel—20.0; vanadium—15; and zinc—200.
(3)(B). Organic Constituents (all units are milligram per liter) acetone—26.0; benzene—0.05; carbon tetrachloride—0.18; chloroform—0.14; 1,2-dichlorobenzene—0.77; hexachlorobenzene—0.13; nitrobenzene—0.14; pentachlorobenzene—0.04; pyridine—0.26; toluene—10.0; toxaphene—89; and vinyl chloride—0.05.

<b>Table 1 - Wastes Excluded</b>
<b>Syngenta Crop Protection, Inc., St. Gabriel, LA</b>
<p>(4). Changes in Operating Conditions If Syngenta significantly changes the operating conditions specified in the petition, Syngenta must notify the department in writing. After receipt of written approval by the department, Syngenta must re-institute the testing required in conditions (1)(A) and (1)(C) for a minimum of four consecutive months. Syngenta must report unit operating conditions and test data required by conditions (1)(A) and (1)(C), including quality control data, obtained during this period no later than 60 days after the changes take place. After written notification by the department, Syngenta may replace testing conditions (1)(A) and (1)(C) with (1)(B) and (1)(D). Syngenta must fulfill all other requirements in condition (1).</p>
<p>(4)(A). Processing Equipment Syngenta may elect to change processing equipment based on operational performance and economic considerations. In the event that Syngenta changes operating equipment, Syngenta must re-institute processing and initiate testing required in conditions (1)(A) and (1)(C) for a minimum of four consecutive months. Syngenta must report unit operating conditions and test data required in conditions (1)(A) and (1)(C), including quality control data, obtained during this period, no later than 60 days after the changes take place. Following written notification by the department, Syngenta may replace testing conditions (1)(A) and (1)(C) with (1)(B) and (1)(D). Syngenta must fulfill all other requirements in condition (1).</p>

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 20:1000 (September 1994), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2397 (December 1999), LR 26:2509 (November 2000), LR29:1084 (July 2003), repromulgated LR 29:1475 (August 2003), amended by the Office of Environmental Assessment, LR 30:2464 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:\*\*.

A public hearing will be held on February 27, 2007, 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 HW094P. Such comments must be received no later than March 6, 2007, 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](mailto: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 HW094P. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://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

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

### **RULE TITLE: Syngenta Crop Protection Delisting Petition**

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

There will be no cost or saving to state or local governmental units for implementing this rule.

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

The state will collect approximately \$43,000 per year less (based on 2005 levels) in hazardous waste disposal tax revenue as a result of this proposed delisting rule.

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

In addition to savings of approximately \$43,000 per year in hazardous waste disposal tax, Syngenta will pay approximately \$60,000 per year less in analytical costs and about \$30,000 per year less to waste container suppliers. The result will be an immediate net saving of about \$133,000 per year for Syngenta, which will allow for continued operation of its multi-purpose incinerator (MPI) for an additional time, despite recent increases in natural gas costs for operation of the system. The delisting of this scrubber effluent will not relieve the company from any liability for these wastes under federal or state law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effects on competition and employment are negligible. This delisting would only reduce the substantial cost to the company of operating the system and not increase receipts.

Herman Robinson, CPM  
Executive Counsel  
0701#060

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

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

PPO, EPO, and MCO Plans of Benefits  
Lifetime Maximum Prescription Drug Benefit  
(LAC 32:III.701, V.701, and IX.701)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO, EPO, and MCO Plan Documents to increase the lifetime maximum benefit for outpatient prescription drug benefits from \$250,000 to \$500,000.

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

The text of this proposed Rule can be viewed in the Emergency Rule section of this edition of the *Louisiana Register*.

#### **Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows. It will increase the lifetime maximum benefit for outpatient prescription drug benefits for OGB plan participants from \$250,000 to \$500,000 per individual.

Interested persons may present their views, in writing, to Tommy D. Teague, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Friday, February 23, 2007.

Tommy D. Teague  
Chief Executive Officer

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

#### **RULE TITLE: PPO, EPO, and MCO Plans of Benefits Lifetime Maximum Prescription Drug Benefit**

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

It is estimated that this benefit modification will cost the PPO, EPO and MCO plans of OGB approximately \$40,000 to \$110,000 in FY 06/07 (6 months of the Fiscal Year), \$88,000 to \$242,000 in FY 07/08, and \$96,800 to \$266,000 in FY 08/09 (a 10% trend factor has been applied to FY 07/08 and FY 08/09). Although the increase of \$40,000 to \$110,000 in FY 06/07 for the cost of this benefit to OGB is paid from Agency-Self Generated Funds, 66% of the impact (\$26,667 to \$73,333) is on the State General Fund for employer contribution of premiums paid to OGB. This benefit would increase the current lifetime maximum threshold for prescription drugs from the current \$250,000 per member to \$500,000 per member. It is anticipated \$3,000 in expenses will be incurred with the publishing of this rule in FY 06/07.

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

Revenue collections of State or Local Governmental units should not be affected.

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

This rule will result in PPO, EPO and MCO members (approximately 230,000) having the lifetime maximum threshold for prescription drugs increased to \$500,000 per member from the current \$250,000 limit. There is no direct premium increase for members as a result of this additional benefit, in itself for FY 06/07, but increased costs will be considered for premium rates that are effective July 1, 2007 and thereafter.

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

Competition and employment will not be affected.

Tommy D. Teague  
Chief Executive Officer  
0701#065

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

#### **NOTICE OF INTENT**

#### **Office of the Governor Manufactured Housing Commission**

#### **Placement of Used Homes (LAC 55:V.519)**

In accordance with provisions of the Administrative Procedure Act, R.S.49:951 et seq., and under the authority of R.S. 51:911.26(E), the Louisiana Manufactured Housing Commission (hereinafter the "Commission") proposes to adopt appropriate construction and/or installation standards for the citing of manufactured homes in the secondary market.

#### **Title 55**

#### **PUBLIC SAFETY**

#### **Part V. Fire Protection**

#### **Chapter 5. Manufactured Housing (Installation)**

#### **Subchapter A. General Requirements**

#### **§519. Placement of Used Homes**

A. In accordance with 24 CFR Ch. XX §3280.305 et seq., manufactured homes in the secondary market shall be cited effective January 1, 2007 in accordance with federal wind zones standards applicable for Louisiana Zone II and III as set forth in 24 CFR Ch. XX §3280.305 et seq., and thereafter amended. However, if any manufactured home is cited within Louisiana Wind Zone II or III as of January 1, 2007 and the citing of this home within Wind Zone II or III can be definitively documented through such means as an installation permit sticker issued by and/or returned to the Louisiana Manufactured Housing Commission; a title which uniquely identifies your home and references the physical location of citing or some other independent means of credible documentation, then such manufactured home will be allowed to transfer indefinitely within the wind zone where it is cited as of January 1, 2007. Additionally, such manufactured home may also transfer to a less stringent wind zone than the zone where it is cited as of January 1, 2007.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51: 911.26(E).

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Manufactured Housing Commission, 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. 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. a family's earnings and budget;
5. the behavior and personal responsibility of children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed rules.

Interested persons may submit written comments until 4:30 p.m., February 10, 2007, to Deanne M. Frazier, Executive Director, LA Manufactured Housing Commission, 224 Florida, Suite 101 Baton Rouge, LA 70801.

Deane M. Frazier  
Executive Director

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

**RULE TITLE: Placement of Used Homes**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
This rule will have no implementation costs to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
This 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 change may result in additional but indeterminable costs if the homeowner were to choose to relocate to a more stringent wind zone which may necessitate the purchase of either a new HUD home or a HUD home in the secondary market which meets federal wind zone standards.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This rule will have no effect on competition or employment.

Deanne M. Frazier  
Executive Director  
0701#007

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Examiners of Psychologists**

Fees (LAC 46:LXIII.Chapter 6)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Examiners of Psychologists intends to adopt Chapter 6 to define fees charged by the board in accordance with the Louisiana Licensing Law for Psychologist, R.S. 37:2354 and the Administrative Procedure Act §§968 and 971.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXIII. Psychologists**

**Chapter 6. Fees  
§601. Licensing Fees**

Licensing Fees	Amount
Application for Licensure	\$250
Oral Examination (Licensure, specialty change or additional specialty)	250
License Renewal	320
Emeritus License Renewal	160

Licensing Fees	Amount
Application for Certificate of Prescriptive Authority	250
Reinstatement of Lapsed License (Application plus renewal fee)	570

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33: §603. Administrative/Other Fees

Administrative/Other Fees	Amount
Address List/Labels	\$ 100
License Verification	5
Disciplinary Action Report	25
Directory & Statutory Reference Book	12.50
Replacement License Certificate	25
Photo ID Card	15

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:

**Family Impact Statement**

The Board of Examiners of Psychologists hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule related to fees charged by the Board of Examiners of Psychologists will have no known or foreseeable impact on the stability and functioning of the family; the authority and rights of parents regarding the education and supervision of their children; family earnings and family budget; behavior and personal 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 Jaime T. Monic, Executive Director, 8280 YMCA Plaza Dr., Bldg. 8-B, Baton Rouge, LA 70810. All comments must be submitted by 12 p.m., February 9, 2007.

Jaime T. Monic  
Executive Director

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

**RULE TITLE: Fees**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
The estimated implementation cost for this rule totals \$120 in FY06-07 and only applies to the Board of Examiners of Psychologists. Those costs are related to publishing the proposed and final rule in the Louisiana Register.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed rule will increase the revenue collections of the Board by approximately \$50,400 in FY06-07.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
This proposed rule will increase the one time application fee by \$100 affecting approximately 40 applicants for licensure annually. An increase in the one time oral examination fee of \$100 will affect approximately 19 candidates for licensure, and 1 psychologist per year who would opt to change or add a specialty to their license, thus requiring an oral examination.

Approximately 15 psychologists per year apply for an optional Certificate of Prescriptive Authority (Medical Psychology License), which will increase this fee by \$150. The annual licensing renewal fee for approximately 600 psychologists will increase by \$70 (\$35 for emeritus status). The increase in the application and renewal fee has an automatic and direct effect on the amount of the reinstatement fee (In accordance with RS 37:2354.C, this fee must equal the application fee plus the renewal fee). As a result, the reinstatement fee will increase by \$170 which is applicable only if a psychologist allows their license to lapse for failure to pay the required renewal fee or submit continuing education as required by the laws and rules that govern this Board. This rule also publishes the administrative fees currently charged by the Board. There is no other impact anticipated from this proposed action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Jaime T. Monic  
Executive Director  
0701#034

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Examiners of Psychologists**

Licenses (LAC 46:LXIII.900 and 901)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists intends to promulgate LAC 46:LXIII.900 and amend LAC 46:LXIII.901.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXIII. Psychologists**

**Chapter 9. Licenses**

**§900. License Renewal**

A. A psychologist is eligible to renew their current license until July 31 of each year upon submission of the required renewal fee, renewal application form and fulfillment of all continuing education requirements as defined in LAC 46:LXIII.Chapter 8.

B. A license may be valid for one year beginning August 1 through July 31 for each renewal period.

C. A person whose license has been suspended is not eligible for renewal. Reinstatement procedures of a suspended license may be established through a consent agreement, or after a period of two years from the date of suspension a person may reapply for licensure.

D. A person whose license has been revoked is not eligible for renewal. However, after a period of more than two years from the date of revocation, a person may reapply for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354 and 37:2359.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:

**§901. Renewal of Lapsed Licenses**

A. If the licensee is not renewed by the end of July, due notice having been given, the license shall be regarded as lapsed for the year beginning with that August. Such lapsed license shall not be listed in the directory.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:489 (August 1980), amended LR 10:795 (October 1984), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:2074 (October 2003), LR 33:

**Family Impact Statement**

The Board of Examiners of Psychologists hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule related to the license renewal of psychologists will have no known or foreseeable impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; family earnings and family budget; behavior and personal 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 Jaime T. Monic, Executive Director, 8280 YMCA Plaza Dr., Bldg. 8-B, Baton Rouge, LA 70810. All comments must be submitted by 12 p.m., February 9, 2007.

Jaime T. Monic  
Executive Director

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

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

The estimated implementation cost for this rule totals \$120 in FY06-07 and only applies to the Board of Examiners of Psychologists. Those costs are related to publishing the proposed and final rule in the Louisiana Register.

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

There is no estimated effect on revenue collections.

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

There is no estimated costs or economic benefits to affected persons or non-governmental groups. The proposed rule clarifies the circumstances under which a licensee may renew their license and aligns renewal procedures with current Board policy.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Jaime T. Monic  
Executive Director  
0701#035

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Veterinary Medicine

#### Continuing Veterinary Medicine Education (LAC 46:LXXXV.Chapter 4)

Editor's Note: This Notice of Intent is being republished due to an error upon submission. The original Notice of Intent may be viewed on pages 2144-2145 in the November 2006 edition of the *Louisiana Register*.

The Louisiana Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.400, 403, 405, 409, and 413 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1569. This text is being amended to alter the requirements and program approval of continuing veterinary medicine education for annual renewal of veterinary medicine license, from 16 credits hours per year to 20 credit hours per year with an expansion in the nature and substance of acceptable credit hours, in order to maintain and improve professional competencies for the health, welfare, and safety of the citizens and animals of Louisiana. The proposed Rule will become effective, after promulgation, for the period of time (July 1, 2007-June 30, 2008) for the 2008-2009 annual license renewal and every annual license renewal period thereafter. The proposed Rule amendment has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXXXV. Veterinarians

#### Chapter 4. Continuing Veterinary Education

#### §400. Definitions

\* \* \*

*Contact Participation*—physical attendance at seminars, lectures, conferences, or workshops.

*Continuing Veterinary Education*—approved, accredited experience obtained from participation in post graduate veterinary studies, institutes, seminars, lectures, conferences, workshops, and other authorized forms of educational experiences so as to maintain and improve professional competencies for the health, welfare, and safety of the citizens and animals of Louisiana.

*Continuing Veterinary Education Units*—units of measure approved by the Louisiana Board of Veterinary Medicine for the purpose of accreditation of various continuing education activities. One continuing education unit is equivalent to one hour of activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:224 (March 1990), amended LR 19:1427 (November 1993), LR 33:

#### §403. Continuing Veterinary Education Requirements

A. A minimum of 20 actual hours is required each fiscal year (July 1 through June 30) as a prerequisite for annual renewal of a license. Hours may be taken from:

1. any pre-approved program as described in §409;
2. ...

3. the 20 hour requirement for annual renewal of a license may be taken in any combination of the following board approved programs: clinical, alternative, regulatory, practice management, and/or research.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated as §405 by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:224 (March 1990), amended LR 19:1427 (November 1993), LR 23:1147 (September 1997), LR 28:1208 (June 2002), LR 33:

#### §405. Exceptions and Exemptions

A. A licensee who fails to obtain the required approved minimum of 20 hours within the prescribed 12-month period will not meet the requirements for renewal of his license. Such a license shall expire on September 30 for any licensee who does not timely and properly comply with the annual continuing education requirement. Thereafter, a licensee may apply for renewal of his expired license, however, he shall be unable to lawfully practice veterinary medicine until such time as the requirements for renewal have been met and documented to the satisfaction of the board. Any late fees and/or fines assessed by the board shall be paid before the renewal is issued.

B. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:224 (March 1990), amended LR 19:1428 (November 1993), LR 23:1147 (September 1997), LR 29:1478 (August 2003), LR 33:

#### §409. Approved Continuing Education Programs

A. ...

1. All units or hours from contact participation programs listed on the pre-approved list of the board shall be accepted.

2. The list of programs for which pre-approval has been granted will be updated as needed and published annually by the board.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:224 (March 1990), amended LR 19:1428 (November 1993), LR 33:

#### §413. Non-Compliance

A. - D. ...

E. The promulgation of rule amendments by the board published in the *Louisiana Register* on \_\_\_\_\_, 2007 shall become effective for the period of time (July 1, 2007-June 30, 2008) for the 2008-2009 annual license renewal and every annual license renewal period thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated as by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:225 (March 1990), amended LR 19:1428 (November 1993), LR 33:

Interested parties may submit written comments to Wendy D. Parrish, Administrative Director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801, or by facsimile to (225) 342-2142. Comments will be accepted through the close of business on February 21, 2007. If it becomes necessary to convene a

public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on Thursday, March 1, 2007, at 10 a.m. at the Office of the Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA.

Wendy D. Parrish  
Administrative Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Continuing Veterinary  
Medicine Education**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendment (estimated at \$350 in FY 2007). Licensees will be informed of this rule change via the board's regular newsletter or other direct mailings, which result in minimal costs to the Board.
- 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 no increase in fees will result from the amendment.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The proposed rule alters the requirements and program approval of continuing veterinary medicine education for annual renewal of veterinary medicine license, from 16 credit hours per year to 20 credit hours per year with an expansion in the nature and substance of acceptable credit hours. These authorized forms of educational experiences are to maintain and improve professional competencies for the health, welfare, and safety of the citizens and animals of Louisiana. The additional 4 credit units should have a minimal impact on costs incurred by the licensees for participation in continuing education programs already required by the licensees. The proposed rule will become effective, after promulgation, for the period of time (July 1, 2007-June 30, 2008) for the 2008-2009 annual license renewal and every annual license renewal period thereafter.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No impact on competition and employment is anticipated as a result of the proposed rule.

Wendy D. Parrish  
Administrative Director  
0701#033

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of Public Health**

Control of Rabies and Other Zoonotic Diseases  
(LAC 51:III.101,103,105,107,109, 111 and 303)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to authority granted by R.S. 40:4A(2)(a), and R.S. 40:1277, notice is hereby given that the Department of Health and Hospitals, Office of Public Health, intends to amend Part III of the Louisiana State

Sanitary Code ("The Control of Rabies") in compliance with the Compendium of Animal Rabies and Control, 2006, current recommendation of Centers for Disease Control and Prevention, and local and state humane ordinances; and to correct several inaccuracies in the Code.

**Title 51**

**PUBLIC HEALTH—SANITARY CODE**

**Part III. The Control of Rabies and Other Zoonotic  
Diseases**

**Chapter 1. Anti-Rabies Vaccination Requirements  
for Dogs, Cats, and Ferrets**

**§101. Definitions  
[formerly paragraph 3:001]**

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code and all other Parts which are adopted or may be adopted are defined for the purposes thereof as follows:

*Local Health Authority*—any parish or municipal health officer, department or other agency charged with the responsibility of preserving the public health.

*Owner*—any person who keeps in his care or who harbors or has custody of a dog or other animal.

*Prairie Dogs*—[Formerly paragraph 3:009] any burrowing rodents of the genus *Cynomys*. Prairie dogs can harbor monkeypox. Prairie dogs are also known to be a host for fleas, which carry the causative agent of Plague, the bacteria *Yersinia pestis*. These fleas have the potential to infect other wild animals, as well as domestic animals and humans. Prairie dogs are not indigenous to Louisiana.

*Vaccination*—the injection, by a licensed veterinarian, of an animal using anti-rabies vaccine approved by the state health officer.

*Wild Animal*—any animal species wherein the majority of its members are not maintained by humans for recreational, commercial food production, agricultural, research, or industrial purposes. Other than possibly endangered species, the majority of the members of such a species live primarily in a natural or non-domestic environment. Wolves, wolf hybrids, and feline species other than *Felis felis*/domestic cat hybrids, in circumstances involving rabies vaccination or rabies exposure, will be regarded as wild animals.

*Zoonotic disease*—a disease in humans caused by an infectious agent transmitted from animals to humans. Zoonotic diseases include, but are not limited to, anthrax (caused by *Bacillus anthracis*) and plague (caused by *Yersinia pestis*).

**AUTHORITY NOTE:** The first source of authority for promulgation of the sanitary code is in R.S. 36:258(B), with more particular provisions throughout Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the provisions of R.S. 40:5(2), (3) and (10) together with the specific provisions of R.S. 40:4A(2)(a) and R.S. 40:1277.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1223 (June 2002), amended LR 33:

**§103. Mandatory Vaccinations of Dogs, Cats, and  
Ferrets  
[formerly paragraph 3:002]**

A. No person shall own, keep or have in his custody a dog, cat, or ferret over three months of age that has not been vaccinated against rabies by a licensed veterinarian. Every owner of a dog, cat, or ferret shall cause said animal to be

vaccinated initially with a series of two vaccinations, the first to be administered at three months of age, the second to be administered one year after the initial vaccination. Dogs, cats, or ferrets initially vaccinated later than three months of age shall also be administered a series of two vaccines, the second vaccine to be given one year after the initial vaccination. Subsequent booster vaccines shall be administered one year after the administration of a vaccine that confers one year of immunity and three years after the administration of a vaccine that confers three years of immunity. Approved vaccines and durations of immunity are listed in the most recent *Compendium of Animal Rabies Prevention and Control* prepared by the National Association of State Public Health Veterinarians, Inc., at

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4A(2)(a), and R.S. 40:1277.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1223 (June 2002), amended LR 33:

**§105. Human Exposure to Domestic Animal Bites**  
**[formerly paragraph 3:003]**

A. When any dog, cat, or ferret bites a human being, said animal shall be confined (as described in §113) for a minimum of 10 days following the bite, or said animal shall be killed and the head submitted immediately to a laboratory of the Louisiana Department of Health and Hospitals for examination for rabies. During the observation period a rabies vaccine should not be administered to the animal to avoid confusing signs of rabies with possible side effects of vaccine administration. Any dog, cat, or ferret that develops any signs during the 10-day observation period shall be reported immediately to the local health authority and, provided such signs are compatible with rabies as determined by a licensed veterinarian or the official state public health veterinarian, the animal shall be killed and the head submitted to a laboratory of the Louisiana Department of Health and Hospitals for examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4A(2)(a), and R.S. 40:1277.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1223 (June 2002), amended LR 33:

**§107. Domestic Animals Bitten by Rabid Animals**  
**[formerly paragraph 3:004]**

A. When bitten by a rabid animal, unvaccinated dogs, cats, or ferrets shall be destroyed immediately unless the owner is unwilling to have this done, in which case, the unvaccinated animal shall be confined (as described in §113) for six months and the animal shall be vaccinated one month before being released. Dogs, cats, or ferrets that are currently vaccinated shall be re-vaccinated immediately and confined (as described in §113) for 45 days.

B. All species of livestock exposed to a rabid animal and currently vaccinated with a vaccine approved for that species by the United States Department of Agriculture should be re-vaccinated immediately and observed for 45 days. Unvaccinated livestock should be slaughtered immediately.

C. Other mammals, including wild animals, exposed to a rabid animal should be euthanized immediately.

D. Animals maintained in a United States Department of Agriculture licensed research facility or accredited zoological parks will be evaluated on a case by case basis by the official state public health veterinarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4A(2)(a), and R.S. 40:1277.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1223 (June 2002), amended LR 33:

**§109. Animals Suspected of Being Infected with Rabies**

**[formerly Paragraph 3:006]**

A. Any animal other than a dog, cat, or ferret that bites a human being, or any animal that is suspected of being infected with rabies (whether or not it has bitten anyone), may be required by the state health officer or official state public health veterinarian, for the protection of the public health, to be killed and the head of such animal examined for rabies free of charge by a laboratory of the Louisiana Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4A(2)(a), and R.S. 40:1277.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1223 (June 2002), LR 33:

**§111. Confinement of Animals**  
**[formerly paragraph 3:007]**

A. Where confinement is required under the provisions of this Code, the owner, veterinarian, animal shelter or other custodian of the animal shall confine said animal in a cage or in another manner such that the animal cannot contact any person or other animal. Tethering is not permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4A(2)(a), and R.S. 40:1277.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1224 (June 2002), amended LR 33:

**Chapter 3. Other Zoonotic Diseases**

**§303. Prohibition on Importation/Sale of Prairie Dogs**

A. [Formerly paragraph 3:010] The importation and/or sale of prairie dogs in Louisiana is prohibited.

B. [Formerly paragraph 3:011] This Section shall not apply to zoos approved by the American Association of Zoological Parks and Aquariums.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(9) and R.S. 40:5(2)(3)(17).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 29:1098 (July 2003), amended LR 33:

**Family Impact Statement**

1. The Effect on the Stability of the Family. None.
2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. None.
3. The Effect on the Functioning of the Family. None.
4. The Effect on the Family Earnings and Family Budget. None. The additional vaccine requirements are already suggested for the health of the family and the family's pets.
5. The Effect on the Behavior and Personal Responsibility of Children. None.
6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. Local governments will be required to do no more than currently mandated. If local jurisdictions wish, licensing of ferrets (like licensing of dogs and cats) may be used to generate additional revenue for local animal control agencies.

Interested persons may submit written comments until 4:30 p.m., February 9, 2007, to Dr. Gary Balsamo, State Public Health Veterinarian, 1450 L and A Road, Metairie, LA 70001.

Frederick P. Cerise, M.D., M.P.H.  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Control of Rabies and Other Zoonotic Diseases

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

The proposed rule brings the Louisiana Public Health Sanitary Code in compliance with Centers for Disease Control recommendations for rabies vaccination of animals.

The addition of ferrets to the list of species in which rabies immunization is recognized will incur no costs to state or local governmental units. The current licensing and surveillance systems are already in place within DHH/OPH. In fact, the agency anticipates a savings to the DHH/OPH laboratory rabies surveillance testing due to the elimination of unnecessary testing. While this savings amount is unknown, the amount is projected to be minimal.

Also, there are no implementation costs anticipated other than the \$200 cost of printing the Notice of Intent and the Rule in the Louisiana Register.

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

These rule updates may increase local revenue from rabies licensing of ferrets, however these revenues are anticipated to be minimal.

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

There is a negligible cost to ferret owners for rabies vaccination and licensure. If local jurisdictions elect to include licensing of ferrets in animal licensing requirements, pet ferret owners may be required to comply with licensing requirements in the manner that is currently required of dog and cat owners.

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

There will be no effect on competition and employment.

Sharon Howard  
Assistant Secretary  
0701#066

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

Early and Periodic Screening, Diagnosis and Treatment  
Psychological and Behavioral Services—Reimbursement  
Rate Increase (LAC 50:XV.7703 and 7707)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:XV.7703 and 7707 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 provides coverage and reimbursement of psychological and behavioral services under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Reimbursement for these services is based on 70 percent of the allowable rate on the 2002 Medicare Fee Schedule for Area 1 (*Louisiana Register*, Volume 29, Number 2). As a result of the allocation of additional funds by the Legislature during the 2006 Regular Session, the bureau promulgated an Emergency Rule to increase the reimbursement fees for psychological and behavioral services in the EPSDT program (*Louisiana Register*, Volume 33, Number 1). This proposed Rule is being promulgated to continue the provisions of the December 18, 2006 Emergency Rule and to update the covered service descriptions in accordance with the revised Current Physicians' Terminology (CPT) and to remove the CPT procedure codes.

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 a positive impact on family functioning, stability or autonomy as it will encourage provider participation in the Medicaid Program and improve access to psychological and behavioral services in the EPSDT program.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XV. Services for Special Populations

#### Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

#### Chapter 77. Psychological and Behavioral Services

#### §7703. Covered Services

A. The following services are covered under EPSDT psychological and behavioral services:

1. necessary evaluations—psychiatric diagnostic interview examination or psychological testing;
2. family psychotherapy (with the patient present); and
3. individual psychotherapy.

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 29:40 (January 2003), repromulgated LR 29:180 (February 2003), amended LR 33:

#### §7707. Reimbursement Methodology

A. Effective for dates of service on or after December 18, 2006, reimbursement for EPSDT psychological and behavioral services shall be based on 80 percent of the allowable rate on the 2006 Medicare Fee Schedule for Region 99.

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 29:40 (January 2003), repromulgated LR 29:180 (February 2003), amended LR 33:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of

Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to 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, February 27, 2007 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth 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

## NOTICE OF INTENT

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Pain Management Clinics  
Licensing Standards  
(LAC 48:I.Chapter 74)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 48:I.Chapter 74 as authorized by R.S. 40:2198.11-13. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Act 488 of the 2005 Regular Session of the Louisiana Legislature authorized the Department of Health and Hospitals to promulgate Rules establishing the licensing standards for pain management clinics, including operational and staffing requirements, licensing procedures and reimbursement methodology. Pain management clinics are public or private facilities which primarily engage in the treatment of pain by prescribing narcotic medications. In compliance with the directives of Act 488, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt provisions establishing the licensing standards for pain management clinics.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule will have a positive impact on family functioning and stability as it will assure that the clinics providing care for the management of chronic pain will have uniform licensing regulations governing operations which enhance the health and safety of patients.

#### Title 48

#### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 3. Licensing and Certification

#### Chapter 74. Pain Management Clinics

#### Subchapter A. General Provisions

#### §7401. Definitions

*Addiction Facility*—a facility that is licensed for the treatment of addiction to, or abuse of illicit drugs or alcohol, or both.

*Board*—the Louisiana State Board of Medical Examiners.

*Deficient Practice*—a finding of non-compliance with a licensing regulation.

*Department*—the Department of Health and Hospitals.

*Health Standards Section*—the section within the Department of Health and Hospitals with responsibility for licensing pain management clinics.

*Interventional Pain Management Procedures*—peripheral nerve blocks, epidural injections or spinal facet joint injections employed by a physician as a diagnostic or therapeutic modality of treatment.

*Operated By*—actively engaged in the care of patients at a clinic.

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Early and Periodic Screening, Diagnosis and Treatment Psychological and Behavioral Services—Reimbursement Rate Increase

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

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$1,761 for FY 06-07, \$3,155 for FY 07-08, and \$3,250 for FY 08-09. 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 the implementation of this proposed rule will increase federal revenue collections by approximately \$4,323 for FY 06-07, \$8,026 for FY 07-08, and \$8,266 for FY 08-09. It is anticipated that \$102 will be expended in FY 06-07 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 rule, which continues the provisions of the December 18, 2006 Emergency Rule, proposes to amend the provisions governing the reimbursement methodology for the Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT) to increase the reimbursement fees for psychological and behavioral services (approximately 460 units of service). It is anticipated that implementation of this proposed rule will increase program expenditures for EPSDT psychological and behavioral services by approximately \$5,880 for FY 06-07 and \$11,181 for FY 07-08 and \$11,516 for FY 08-09.

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

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Jerry Phillips  
Medicaid Director  
0701#073

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

*Pain Management Clinic or "Clinic"*—a publicly or privately owned facility which primarily engages in the treatment of pain by prescribing narcotic medications.

*Pain Specialist*—a physician, licensed in Louisiana, with a certification in the subspecialty of pain management by a member board of the American Boards of Medical Specialties.

*Physician*—an individual who:

1. possesses a current, unrestricted license from the Board to practice medicine in Louisiana;
2. during the course of his practice has not been denied the privilege of prescribing, dispensing, administering, supplying, or selling any controlled dangerous substance; and
3. during the course of his practice has not had board action taken against his medical license as a result of dependency on drugs or alcohol.

*Primarily Engaged*—the majority of patients, 51 percent or more of the patients seen on any day a clinic is in operation, are issued a narcotic prescription for the treatment of chronic non-malignant pain. A physician who utilizes interventional pain management procedures on his patients, in addition to narcotic medications, shall not be considered primarily engaged in the treatment of chronic non-malignant pain by prescribing narcotic medications provided that the physician:

1. can demonstrate that he is qualified to perform interventional pain management procedures by virtue of his completion of a post-graduate or residency training program; and
2. is certified by a member board of the American Board of Medical Specialties.

*Urgent Care Facility*—a medical clinic which offers primary and acute health services to the public during stated hours of operation and which must accommodate walk-in patients seeking acute health services. For purposes of this definition, the treatment of chronic pain patients is not considered acute health services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

### **§7403. Ownership**

A. Except as specified in §7403.B, each clinic shall be owned and operated by a physician certified in the subspecialty of pain management by a member board of the American Boards of Medical Specialties.

B. A clinic in operation on or before June 15, 2005, is exempt from §7403.A if all of the following requirements are met.

1. The clinic is not owned, either in whole or in part, by independent contract, agreement, partnership, or joint venture with a physician who during the course of his practice has:
  - a. been denied the privilege of prescribing, dispensing, administering, supplying, or selling any controlled dangerous substance; and
  - b. had board action taken against his medical license as a result of dependency on drugs or alcohol.
2. The clinic is not owned, either in whole or in part, by an individual who has been convicted of, pled guilty or nolo contendere to a felony.

3. The clinic is not owned, either in whole or in part, by an individual who has been convicted of, pled guilty or nolo contendere to a misdemeanor, the facts of which relate to the use, distribution, or illegal prescription of any controlled substance.

4. The clinic shall operate as an urgent care facility offering primary or acute health services, in addition to caring for patients with chronic pain, and shall have held itself out to the public as an urgent care facility.

C. A change of ownership (CHOW) shall be reported in writing to the Health Standards Section within five working days of the transfer of ownership by any lawful means. The license of a clinic is not transferable or assignable between individuals, clinics or both. A license cannot be sold.

1. The new owner must submit all documents required for a new license including the licensing fee. Once all application requirements are completed and approved by the department, a new license shall be issued to the new owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

### **Subchapter B. Licensing Procedures**

#### **§7411. General Provisions**

A. It shall be unlawful to operate a clinic without obtaining a license issued by the department. The department is the only licensing agency for pain management clinics in the state of Louisiana.

B. A clinic must renew its license annually. A renewal application and licensing fee shall be submitted at least 30 days before the expiration of the current license. Failure to do so shall be deemed to be a voluntary termination and expiration of the facility's license. The license must then be surrendered to the department within 10 days, and the facility shall immediately cease providing services.

C. A license shall be valid only for the clinic to which it is issued and only for that specific geographic address. A license shall not be subject to sale, assignment, or other transfer, voluntary or involuntary. The license shall be conspicuously posted in the clinic.

D. Any change regarding the clinic's name, geographical or mailing address, phone number, or key administrative staff or any combination thereof, shall be reported in writing to the Health Standards Section within five working days of the change.

1. Any name change requires a change in the license and shall be accompanied by a \$25 fee.

E. A separately licensed clinic shall not use a name which is substantially the same as the name of another clinic licensed by the department.

F. Any request for a duplicate license shall be accompanied by a \$5 fee.

G. A clinic intending to have controlled dangerous medications on the premises shall make application for a Controlled Dangerous Substance (CDS) License, and shall comply with all federal and state regulations regarding maintenance and dispensation of such medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

### §7413. Initial Application Process

A. An application packet for licensing as a pain management clinic shall be obtained from the Department of Health and Hospitals. A completed application packet for a clinic shall be submitted to and approved by the department prior to an applicant providing services.

B. An initial applicant shall submit a completed application packet including:

1. the current non-refundable licensing fee;
2. an approval for occupancy from the Office of the State Fire Marshal;
3. a recommendation for licensure from the Office of Public Health (OPH) based on an OPH inspection;
4. a zoning approval from local governmental authorities;
5. a criminal background check on all owners;
6. verification of the physician owner's certification in the subspecialty of pain management; and
7. proof of operation as an urgent care facility if in operation on or before June 15, 2005:

a. this proof shall be an occupational license or certificate of operation issued by local governmental authorities, in addition to verifying information that indicates the facility held itself out to the public as an urgent care facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

### §7415. Licensing Surveys

A. After approval of the initial application by the department, a clinic shall undergo an initial licensing survey to determine that the clinic is in compliance with all licensing regulations. The clinic will receive advance notification of this survey.

1. No patient shall be provided service until the initial licensing survey has been performed and the clinic found to be in compliance.

2. In the event the initial licensing survey finds that a clinic is not in compliance with regulations of this Chapter, the department shall deny the initial license.

B. After the initial licensing survey, the department shall conduct a licensing survey at regular intervals as it deems necessary to determine compliance with licensing regulations. These surveys shall be unannounced to the clinic.

C. The department may conduct a complaint investigation for any complaint received against a clinic. A complaint survey shall be unannounced to the clinic.

D. A follow-up survey shall be done following any licensing survey or any complaint survey to ensure correction of the deficient practice cited on the previous survey. Such surveys shall be unannounced to the clinic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

### §7417. Issuance of Licenses

A. The department shall have authority to issue two types of licenses: a full license or provisional license.

B. A full license may be issued only to applicants that are in compliance with all applicable federal, state and local laws and regulations. This license shall be valid until the expiration date shown on the license, unless the license has been revoked, terminated, or suspended.

C. A provisional license may be issued to those existing licensed clinics that do not meet the criteria for full licensure. This license shall be valid for no more than six months, unless the license has been revoked, terminated, or suspended.

1. A provisional license may be issued by the department for one of the following reasons, including but not limited to:

- a. the clinic has more than five deficient practices during any one survey;
- b. the clinic has more than three valid complaints in a one-year period;
- c. there is a documented incident of placing a patient at risk;
- d. the clinic fails to correct deficient practices within 60 days of being cited or at the time of the follow-up survey, whichever occurs first.

2. A clinic with a provisional license may be issued a full license if at the follow-up survey the clinic has corrected the deficient practice. A full license will be issued for the remainder of the year until the clinic's license anniversary date.

3. The department may re-issue a provisional license or initiate a license revocation of a provisional license when the clinic fails to correct deficient practice within 60 days of being cited or at the time of the follow-up survey, whichever occurs first.

4. The department may also issue a provisional license if there is documented evidence that any representative of the clinic has (without the knowledge or consent of clinic's owner, medical director and/or administrator) bribed, harassed, offered, paid for or received something of economic value for the referral of an individual to use the services of a particular clinic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

### §7419. License Denial, Revocation or Non-Renewal

A. Pursuant to R.S. 49:950, the Administrative Procedure Act, the department may:

1. deny an application for a license;
2. refuse to renew a license; or
3. revoke a license.

B. A clinic license may not be renewed or may be revoked for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with pain management clinic licensing regulations;
2. failure to uphold patient rights whereby deficient practice may result in harm, injury or death of a patient;
3. failure of the clinic to protect a patient from a harmful act by a clinic employee or other patient(s) on the premises, including but not limited to:
  - a. an action posing a threat to patient or public health and safety;

- b. coercion;
  - c. threat or intimidation;
  - d. harassment;
  - e. abuse; or
  - f. neglect;
4. failure to notify proper authorities of all suspected cases of neglect, criminal activity, mental or physical abuse, or any combination thereof;
  5. failure to maintain sufficient staff to meet the needs of the patient;
  6. failure to employ qualified personnel;
  7. failure to remain operational on the days, and during the hours, the clinic has reported to the department that it will be open, unless the closure is unavoidable due to a man-made or natural disaster;
  8. failure to submit fees, including but not limited to:
    - a. fee for the change of address or name;
    - b. any fine assessed by the department; or
    - c. fee for a CHOW;
  9. failure to allow entry to a clinic or access to requested records during a survey;
  10. failure to protect patients from unsafe care by an individual employed by a clinic;
  11. failure to correct deficient practice for which a provisional license has been issued;
  12. when clinic staff or owner has knowingly, or with reason to know, made a false statement of a material fact in any of the following:
    - a. application for licensure;
    - b. data forms;
    - c. clinical records;
    - d. matters under investigation by the department;
    - e. information submitted for reimbursement from any payment source; or
    - f. advertising;
  13. clinic staff misrepresented or fraudulently operated a clinic;
  14. conviction of a felony, or entering a plea of guilty or nolo contendere to a felony by an owner, administrator, director of nursing, or medical director as evidenced by a certified copy of the conviction;
  15. failure to comply with all reporting requirements in a timely manner as requested by the department; or
  16. action taken by the board against a physician owning, employed or under contract to a clinic for violation of the board's pain management rules or other violations of the Medical Practice Act which would make him ineligible for licensure.

C. In the event a clinic's license is revoked or denied renewal, no other license application shall be accepted by the department from the owners of the revoked or denied clinic for a period of two years from the date of the final disposition of the revocation or denial action.

D. When a clinic is under a license revocation action, that clinic is prohibited from undergoing a change of ownership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

## §7421. Notice and Appeal Procedures

A. The department shall furnish the applicant or clinic with written notice of the department's decision to deny a license, revoke a license, or refusal to renew a license.

1. The notice shall specify reasons for the action and shall notify the applicant or clinic of the right to request an administrative reconsideration or to request an appeal. A voluntary termination or expiration of the license is not considered an adverse action and is therefore not appealable.

2. The clinic shall have the right to file a suspensive appeal from the department's decision to revoke the clinic's license.

B. Administrative Reconsideration. A clinic may request an administrative reconsideration of the department's decision to revoke, deny, or refuse to renew a license.

1. A request for an administrative reconsideration must be submitted in writing to the Health Standards Section within 15 days of receipt of notification of the department's action.

2. Administrative reconsideration is an informal process and shall be conducted by a designated official of the department who did not participate in the initial decision to impose the action taken.

a. The designated official shall have the authority to:

- i. affirm the department's decision;
- ii. rescind the department's decision;
- iii. affirm part or rescind part of the department's decision; or
- iv. request additional information from either the department or the clinic.

b. A department spokesman and a clinic spokesman may make an oral presentation to the designated official during the administrative reconsideration.

3. Administrative reconsideration may be made solely on the basis of documents or oral presentations, or both, before the designated official and shall include:

- a. the survey report;
- b. the statement of deficiency; and

c. any documentation the clinic may submit to the department at the time of the clinic's request for such reconsideration.

4. Correction of a deficiency shall not be a basis for administrative reconsideration.

5. An administrative reconsideration is not in lieu of the administrative appeals process and does not extend the time limits for filing an administrative appeal under the provisions of the Administrative Procedure Act.

C. Administrative Appeal Process. Upon denial or revocation of a license by the department, the clinic shall have the right to appeal such action by submitting a written request to the secretary of the department within 30 days after receipt of the notification of the denial or revocation of a license.

1. Correction of a deficiency shall not be the basis of an administrative appeal. Request for administrative reconsideration does not affect time frames for requesting an administrative appeal.

2. Notwithstanding the provisions of §7421.C, the department may immediately revoke a license in any case in which the health and safety of a client or the community may be at risk.

a. The clinic which is adversely affected by the action of the department in immediately revoking a license may, within 30 days of the closing, appeal devolutively from the action of the department by filing a written request for a hearing to the secretary of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

### **Subchapter C. Clinic Administration**

#### **§7431. Medical Director**

A. Each clinic shall be under the direction of a medical director who shall be a physician who:

1. possesses a current, unrestricted license from the board to practice medicine in Louisiana;
2. during the course of his practice, has not been denied the privilege of prescribing, dispensing, administering, supplying, or selling any controlled dangerous substance; and
3. during the course of his practice has not had any board action taken against his medical license as a result of dependency on drugs or alcohol.

B. The medical director shall be a physician certified in the subspecialty of pain management by a member board of the American Boards of Medical Specialties, except for the following exemption.

1. A clinic which has been verified as being in operation on or before June 15, 2005, is required to have a medical director, but is exempt from having a medical director who is certified in the subspecialty of pain management by a member board of the American Boards of Medical Specialties.

C. Responsibilities. The medical director is responsible for the day-to-day operation of a clinic and shall be on-site 50 percent of the time during the operational hours of the clinic. In the event the medical director is not on-site during the hours of operation, then the medical director shall be available by telecommunications and shall be able to be on-site within 30 minutes.

1. The medical director shall oversee all medical services provided at the clinic.

2. The medical director shall ensure that all qualified personnel perform the treatments or procedures for which each is assigned. The clinic shall retain documentation of proficiency and training.

3. The medical director, or his designee, is responsible for ensuring a medical referral is made to an addiction facility, in the event diversion or illicit use by a patient or staff member is reasonably suspected.

4. The medical director is responsible for ensuring a urine drug screen of each patient is obtained as part of the initial medical evaluation and intermittently, no less than quarterly, during the course of treatment for chronic pain.

5. The medical director shall ensure that patients are informed of after-hours contact and treatment procedure.

6. The medical director is responsible for applying to access and query the Louisiana Prescription Monitoring Program (PMP).

a. The PMP is to be utilized by the medical director and the pain specialist as part of a clinics' quality assurance program to ensure adherence to the treatment agreement signed by the patient.

i. The treatment agreement states that the patient has been informed that he shall only obtain and receive narcotic prescriptions from the clinic where he is being treated for chronic pain.

(a). The patient shall be subject to periodic unannounced drug screens and shall not participate in diversion of any controlled dangerous substance or narcotic medications, or both.

b. Compliance to this agreement is to be determined and evaluated at each subsequent visit to a clinic when the patient receives a prescription for a narcotic medication or controlled dangerous substance, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

#### **§7433. Clinic Operations**

A. A clinic shall establish and implement policies and procedures consistent with all pain management rules and regulations issued by the board.

B. A clinic shall verify the identity of each patient who is seen and treated for chronic pain management and who is prescribed a narcotic medication or controlled dangerous substance.

C. A clinic shall establish practice standards to assure quality of care, including but not limited to, requiring that a prescription may not be written for a medication for more than 30 days.

D. Each medical evaluation of a patient treated for chronic, non-malignant pain shall be conducted by a physician certified in the subspecialty of pain management by a member board of the American Boards of Medical Specialties.

E. On each visit to the clinic which results in a controlled dangerous substance being prescribed to a patient, the patient shall be personally examined by a pain specialist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

### **Subchapter D. Facility Requirements**

#### **§7443. Facility Inspections**

A. The clinic shall pass all required inspections and maintain a current file of reports and other documentation demonstrating compliance with applicable laws and regulations. The inspections shall be signed, dated, and free of any outstanding corrective actions.

1. The following inspections are required:

- a. annual fire marshal inspection;
- b. annual inspection by the Office of Public Health;
- c. quarterly fire alarm system test by facility staff;

and

d. regular inspections of the clinic elevators, if any.

B. A certificate of occupancy, as required by local authorities, shall be on file in the clinic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

#### §7445. Physical Environment

A. A clinic shall be constructed, arranged and maintained to ensure the safety and well being of the patient and the general public.

B. The clinic premises shall meet the following requirements including, but is not limited:

1. a sign maintained on the clinic premises that can be viewed by the public which shall contain, at a minimum, the:
  - a. name of the clinic; and
  - b. hours of operation;
2. a neat and clean general appearance of the clinic with established policies and procedures for maintaining a clean and sanitary environment on a regular basis;
3. an effective pest control program shall be maintained to ensure the clinic is free of insects and rodents;
4. proper ventilation, lighting and temperature controls in all areas of the clinic;
5. provisions for emergency lighting and communications, in the event of sudden interruptions in utilities to the clinic; and
6. clearly marked exits and exit pathways with exit signs in appropriate locations.

C. Administrative and public areas of the clinic shall include at least the following:

1. a reception area with a counter or desk, or both;
2. a waiting area with seating containing not less than two seating spaces for each examination or treatment room;
3. a conveniently located, handicapped accessible, public toilet with a lavatory for hand washing with hot and cold water;
4. a conveniently accessible public telephone;
5. a conveniently accessible drinking fountain;
6. at least one consultation room large enough to accommodate family members, in addition to treatment rooms;
7. designated rooms or areas for administrative and clerical staff to conduct business transactions, store records and carry out administrative functions, separate from public areas and treatment areas;
8. a multipurpose room for conferences, meetings, and health education purposes which may be used for the consultation room;
9. filing cabinets and storage for medical records, such records shall be protected from theft, fire, and unauthorized access and having provisions for systematic retrieval of such records;
10. adequate storage for the staff's personal effects; and
11. general storage facilities for supplies and equipment.

D. Clinical facilities shall at least include the following:

1. General-Purpose Examination Room. Each room shall allow at least a minimum floor area of 80 square feet, excluding vestibules, toilets, and closets. Room arrangement should permit at least 2 feet 8 inches clearance at each side and at the foot of the examination table. A hand washing station and a counter or shelf space adequate for writing shall be provided.
2. Treatment Room. A room for minor surgical and cast procedures, in the event such services are provided, shall have a minimum of 120 square feet, excluding vestibules, toilets, and closets. The minimum room

dimension shall be 10 feet by 12 feet. A lavatory and a counter or shelf space for writing shall be provided.

3. Medication Storage Area. All drugs and biologicals shall be kept under proper temperature controls in a locked, well illuminated, clean medicine cupboard, closet, cabinet or room.

a. Drugs and biologicals shall be accessible only to individuals authorized to administer or dispense such drugs or biologicals.

b. All controlled dangerous drugs or biologicals shall be kept separately from non-controlled drugs or biologicals in a locked cabinet or compartment.

c. Drugs or biologicals that require refrigeration shall be maintained and monitored under proper temperature controls in a separate refrigerator.

4. Clean Storage Area. A separate room or closet for storing clean and sterile supplies shall be provided.

5. Soiled Utility Room. Provisions shall be made for separate collection, storage, and disposal of soiled materials.

6. Sterilization Area. An area in the clinic shall be designated for sterilizing equipment if sterilization of supplies, equipment, utensils and solutions are performed in the clinic.

7. Housekeeping Room. A separate housekeeping room shall contain a service sink and storage for housekeeping supplies and equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

#### §7447. Infection Control Requirements

A. The clinic shall have policies and procedures to address the following:

1. decontamination;
2. disinfection;
3. sterilization;
4. storage of sterile supplies;
5. disposal of biomedical and hazardous waste; and
6. training of all staff in universal precautions upon initial employment and annually thereafter.

B. The clinic shall make adequate provisions for furnishing properly sterilized supplies, equipment, utensils and solutions.

1. Some disposable supplies and equipment shall be utilized but when sterilizers and autoclaves are utilized to sterilize supplies, equipment, utensils and solutions, they shall be of the proper type and necessary capacity to adequately sterilize such implements as needed by the clinic.

2. The clinic shall have policies and procedures that address the proper use of sterilizing equipment and monitoring performed to ensure that supplies, equipment, utensils and solutions are sterile according to the manufacturers' recommendations and standards of practice.

a. Such procedures and policies shall be in writing and readily available to personnel responsible for sterilizing procedures.

3. To avoid contamination, appropriate standards of care techniques for handling sterilized and contaminated supplies and equipment shall be utilized.

C. There shall be a separate sink for cleaning instruments and disposal of non-infectious liquid waste.

D. Each clinic shall develop, implement and enforce written policies and procedures for the handling, processing, storing and transporting of clean and dirty laundry.

1. In the event a clinic provides an in-house laundry, the areas shall be designed in accordance with appropriate clinic laundry design in which a soiled laundry holding area is provided and physically separated from the clean laundry area. Dirty or contaminated laundry shall not be stored or transported through the clean laundry area.

2. In the event an in-house laundry is utilized, special cleaning and decontamination processes shall be used for contaminated linens, if any.

E. A clinic shall provide housekeeping services which assure a safe and clean environment. Housekeeping procedures shall be in writing. Housekeeping supplies shall be made available to adequately maintain the cleanliness of the clinic.

F. Garbage and biohazardous or non-biohazardous waste shall be collected, stored and disposed of in a manner which prevents the transmission of contagious diseases and to control flies, insects, and animals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

#### **§7449. Health and Safety Requirements**

A. Environmental Requirements. The clinic, including its grounds, buildings, furniture, appliances, and equipment, shall be structurally sound, in good repair, clean, and free from health and safety hazards.

1. The environment of the clinic shall enhance patient dignity and confidentiality.

2. The clinic shall prohibit weapons of any kind in the clinic or on the clinic premises.

B. Evacuation Procedures and First Aid. The clinic shall respond effectively during a fire or other emergency. Each clinic shall:

1. have an emergency evacuation procedure including provisions for the handicapped;

2. conduct fire drills at least quarterly and correct identified problems promptly;

3. be able to evacuate the building safely and in a timely manner;

4. post exit diagrams conspicuously throughout the clinic; and

5. post emergency telephone numbers by all telephones, including but not limited to the patient telephone in the waiting area.

C. A clinic shall take all precautions to protect its staff, patients and visitors from accidents of any nature.

D. The clinic shall have a written, facility-specific, disaster plan and its staff shall be knowledgeable about the plan and the location of the plan.

E. Emergency Care

1. At least one employee on-site at each clinic shall be certified in Advanced Cardiac Life Support (ACLS) and be trained in dealing with accidents and medical emergencies until emergency medical personnel and equipment arrive at the clinic.

2. A clinic shall have first aid supplies which are visible and easy to access.

3. The following equipment and supplies shall be maintained and immediately available to provide emergency medical care for problems which may arise:

a. emergency medication, as designated by the medical director;

b. oxygen and appropriate delivery supplies, including and not limited to:

i. nasal cannula; and

ii. masks;

c. intravenous fluids; and

d. sterile dressings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

#### **§7451. Quality Assurance**

A. A clinic, with active participation of its medical staff, shall conduct an ongoing, comprehensive quality assurance (QA) program which shall be a self-assessment of the quality of care provided at the clinic. Quality indicators shall be developed to track and trend potential problematic areas. These quality indicators shall include, at a minimum, the following:

1. the medical necessity of procedures performed, complications as a result of such performed procedures, and appropriateness of care;

2. any significant adverse affects of medical treatment or medical therapy, including the number of overdoses of prescribed medications or the number of deaths resulting from such overdoses, or both;

3. the number of patients referred to other health care providers for additional treatment or to an addiction facility;

4. the number of patient or family complaints or grievances and their resolutions;

5. the number of patients the clinic refuses to continue to treat due to misuse, diversion of medications, or non-compliance with prescribed medication treatment regimen;

6. identified infection control incidents; and

7. the monitoring of patients who have been treated with prescribed narcotic pain medication for a continuous period of 12 months and longer.

B. At least quarterly, the clinic shall systematically analyze all data and develop a corrective action plan for identified problems determined through the clinic's QA process.

1. When appropriate, the clinic shall make revisions to its policies and procedures and provide written documentation that the corrective action plan has been monitored for continued sustained compliance to the appropriate standard of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

#### **Subchapter E. Patient Records**

##### **§7461. Patient Records**

A. Retention of Patient Records

1. The clinic shall establish and maintain a medical record on each patient. The record shall be maintained to assure that the medical treatment of each patient is completely and accurately documented, records are readily

available and systematically organized to facilitate the compilation and copying of such information.

a. Safeguards shall be established to maintain confidentiality and protection of the medical record from fire, water, or other sources of damage.

2. The department shall have access to all business records, patient records or other documents maintained by or on behalf of the clinic to the extent necessary to ensure compliance with this Chapter.

a. Ensuring compliance includes, but is not limited to:

i. permitting photocopying of records by the department; and

ii. providing photocopies to the department of any record or other information the department may deem necessary to determine or verify compliance with this Chapter.

3. Patient records shall be kept for a period of six years from the date a patient is last treated by the clinic. The patient records shall:

a. remain in the custody of the clinic;

b. be maintained on the premises for at least one year; and

c. not be removed except under court order or subpoena.

4. Any patient record maintained off-site after one year shall be provided to the department for review not later than 24 hours after the department requests such medical record.

#### B. Content of Medical Record

1. A medical record shall include, but is not limited to, the following data on each patient:

a. patient identification information;

b. medical and social history, including results from an inquiry to the Prescription Monitoring Program (PMP), if any;

c. physical examination;

d. chief complaint or diagnosis;

e. clinical laboratory reports, including drug screens, if any;

f. pathology report (when applicable), if any;

g. physicians orders;

h. radiological report (when applicable), if any;

i. consultation reports (when applicable), if any;

j. current medical and surgical treatment, if any;

k. progress notes;

l. nurses' notes of care, including progress notes and medication administration records;

m. authorizations, consents, releases, and emergency patient or family contact number;

n. special procedures reports, if any;

o. an informed consent for chronic pain narcotic therapy; and

p. an agreement signed by the patient stating that he/she:

i. has been informed and agrees to obtain and receive narcotic prescriptions only from the clinic where he is receiving treatment for chronic pain;

ii. shall be subject to quarterly, periodic, unannounced urine drug screens;

iii. shall not participate in diversion of any controlled dangerous substance or narcotic medications, or both;

iv. shall not participate in illicit drug use; and

v. acknowledges that non-compliance with this agreement may be a reason for the clinic's refusal to treat.

2. An individualized treatment plan shall be formulated and documented in the patient's medical record. The treatment plan shall be in accordance with the board's Pain Rules and shall include, but is not limited to, the following:

a. medical justification for chronic pain narcotic therapy;

b. documentation of other medically reasonable alternative treatment for relief of the patient's pain have been considered or attempted without adequate or reasonable success; and

c. the intended prognosis of chronic pain narcotic therapy which shall be specific to the individual medical needs of the patient.

3. Signatures. Clinical entries shall be signed by a physician, as appropriate, i.e., attending physician, consulting physician, anesthesiologist, pathologist, etc. Nursing progress notes and assessments shall be signed by the nurse.

4. Nurses' Notes. All pertinent assessments, treatments and medications given to the patient shall be recorded in the nurses' progress notes. All other notes, relative to specific instructions from the physician, shall also be recorded.

5. Completion of the medical record shall be the responsibility of the patient's physician.

C. Provided the regulations herein are met, nothing in this Section shall prohibit the use of automated or centralized computer systems, or any other electronic or non-electronic techniques used for the storage of patient medical records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated 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 Thursday, February 27, 2007 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth 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: Pain Management Clinics  
Licensing Standards**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
It is anticipated that \$2,584 (\$1,292 SGF and \$1,292 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 increase self generated funds by approximately \$21,600 for FY 06-07, \$27,600 for FY 07-08, and \$33,600 for FY 08-09 as a result of the collection of annual fees from the licensing of pain management clinics. It is anticipated that \$1,292 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)  
This rule proposes to adopt provisions to establish licensing standards for pain management clinics (approximately 35 clinics), pursuant to Act 488 of the 2005 Regular Session of the Louisiana Legislature. Currently operating and new pain management clinics will have to comply with the proposed licensing standards. It is anticipated that the increased self-generated funds from the proposed fees will be sufficient to cover the cost associated with licensure activities in FY 07 and subsequent fiscal years.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This rule has no known impact on competition and employment.

Jerry Phillips  
Medicaid Director  
0701#074

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Labor  
Office of Workers' Compensation**

**Workers' Compensation Court Hearing Procedures  
(LAC 40:I.Chapters 55-66)**

The Louisiana Department of Labor, Office of Workers' Compensation, pursuant to authority vested in the Director of the Office of Workers' Compensation by R.S. 23:1310.1 and in accordance with applicable provisions of the Administrative Procedure Act, proposes to amend and reenact rules governing the procedure before the workers' compensation court, LAC 40:I, Subpart 2, Chapters 55 through 66 and to enact Section 5927 and to repeal Sections 6009 and 6201, to provide for the procedural rules for the workers' compensation court.

**Title 40**

**LABOR AND EMPLOYMENT**

**Part I. Workers' Compensation Administration  
Subpart 2. Hearing Rules**

**Chapter 55. General Provisions**

**Subchapter A. Definitions**

**§5501. Purpose; Definitions**

A. - B. ...

*Claimant*—shall refer to the injured employee.

\* \* \*

*Petitioner*—shall, as the context requires, mean the employer, the insurance carrier, the group self-insurance fund, the health care provider, claimant, or a dependant of a claimant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:264 (February 1999), amended LR 25:1859 (October 1999), LR 33:

**Subchapter C. Commencement**

**§5507. Commencement of a Claim**

A. ...

B. Any claim may be initiated with the director, office of worker's compensation administration, or the district office of proper venue by hand delivery, United States mail, facsimile transmission or electronic transmission (with verified signature) addressed to the Office of Worker's Compensation administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999) amended LR 25:1860 (October 1999), LR 33:

**§5509. Delay for Answering**

A. A defendant shall file his answer within 15 days after service of the citation in accordance with Code of Civil Procedure Articles 1001, 1005 and 1006. The defendant shall certify that a copy of the answer was sent to all parties to the claim.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended LR 25:1860 (October 1999), LR 33:

**§5511. Service**

A. ...

B. Service shall be made upon the defendant in accordance with R.S. 23:1304 or any designated representative of the defendant appearing at the mediation conference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended LR 25:1860 (October 1999), LR 33:

**Subchapter D. Venue**  
**§5515. Proper Venue**

A. ...

B. When the claimant or his dependant is not a party to the disputed claim, the petitioner shall have the right to select the situs of necessary hearings by the workers' compensation judge as provided in Code of Civil Procedure Articles 44 and 121.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended LR 25:1860 (October 1999), LR 33:

**Subchapter E. Recusal**

**§5525. Procedure for Recusal of a Workers' Compensation Judge**

A. Recusal of a workers' compensation judge shall be governed by Code of Civil Procedure Article 151.

B. A workers' compensation judge may recuse himself, whether a motion for his recusation has been filed by a party or not, in any cause in which a ground for recusation exists.

C. If a judge recuses himself pursuant to this Section, he shall provide in writing to the Chief Judge the specific grounds under Code of Civil Procedure Article 151 for which the recusal is ordered within 15 days of the rendering of the order of recusal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1860 (October 1999), amended LR 33:

**§5529. Recusal on Court's Own Motion**

A.1. Any party to a workers' compensation claim may file a written motion for recusal of the judge to whom the matter is assigned specifying the grounds for recusal. This motion shall be filed prior to trial or hearing unless the party discovers the facts constituting the ground for recusal thereafter. In such case, the motion shall be filed immediately after the facts are discovered, but in no case after judgment. Upon receipt of the motion, the judge shall withdraw without further proceedings and authority and immediately refer the matter to the chief judge for hearing or appointment of a judge for contradictory hearing properly noticed by the court on the motion. Such hearing shall be held in an expedited manner and in no event later than 14 days following filing of the motion.

2. Qualification for appointment as an ad hoc judge shall be governed by the provisions of R.S. 23:1310.1.B.

B. Grounds for recusal shall be as provided in Code of Civil Procedure Article 151. A. A judge may recuse himself after notifying the chief judge, whether a motion for recusal has been filed by a party or not, in any claim in which a ground for recusal exists prior to a judgment being rendered.

C. Until a judge has recused himself, or a valid motion for his recusal is filed, he has full power and authority to act in the cause. If a valid ground for recusal is set forth in the motion, the judge shall either recuse himself, or refer the motion to the chief judge. Upon receipt of the motion the chief judge shall either try the motion or assign it to another workers' compensation judge for trial.

D. On written application of a workers' compensation judge, the chief judge shall immediately reassign the matter

to another workers' compensation judge in either the same workers' compensation district office or another workers' compensation district office.

E. Consolidated cases are to be considered as one case within the meaning of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended LR 25:1860 (October 1999), LR 33:

**Subchapter F. Power and Authority**

**§5533. General**

A. Workers' compensation judges shall have the power to enforce any lawful order and the discretionary authority to use necessary sanctions, including dismissal, in order to control the orderly process of the hearing, enforce orders, and these rules.

B. ...

C. All workers' compensation judges shall be subject to the Code of Judicial Conduct, Civil Service Rules, the Louisiana Code of Governmental Ethics and the LSBA Code of Professional Conduct.

D. All workers' compensation mediators shall be subject to the Civil Service Rules, the Louisiana Code of Governmental Ethics, and the LSBA Code of Professional Conduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended LR 25:1860 (October 1999), LR 33:

**§5537. Procedure**

A. The procedure for contempt of court shall be as found in R.S. 23:1310.7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended LR 25:1861 (October 1999), LR 33:

**Subchapter G. Clerks**

**§5539. District Clerk; Pleadings Filed; Docket Books**

A. Each workers' compensation district and the records management division shall have a clerk(s), who shall have the authority to certify records of the office. The supervisor of the records management division shall be the custodian of all records and documents for that district or the office and no such records, documents, or paper shall be withdrawn.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended LR 25:1861 (October 1999), LR 33:

**Subchapter H. Bailiffs**

**§5541. Security**

A. - C. ...

D. No person shall be admitted to or allowed to remain in the premises with any object that might be employed as a weapon unless he or she has been authorized in writing by the workers' compensation judge to do so, or unless he or she is a peace officer or duly commissioned reserve officer.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended LR 25:1861 (October 1999), LR 33:

### **Subchapter I. Attorneys and Other Persons before the Court**

#### **§5547. Withdrawal of Counsel**

A. ...

B. Counsel of record who withdraws or is discharged prior to submission of the case, and desires to assert a claim for fees, must attach an affidavit to that effect and set forth the period of time during which his client was under his or her representation. If asserting a claim, counsel shall also file a lien form, to be developed by the director, identifying any attorney lien he alleges on the pending claim for payment of attorney fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999), amended LR 25:1862 (October 1999), LR 33:

### **Chapter 57. Actions**

#### **Subchapter A. General Provisions**

##### **§5701. Prescription; Filing Procedure**

A. Prescription periods shall be as set forth in R.S. 23:1031.1.E, F, I, 1209, and 1234. Time limits shall be calculated from the date of mailing as shown by the post mark, other proof of mailing, the date a facsimile or electronic transmission (with verified signature) is received.

B. A facsimile or electronic transmission (with verified signature), when filed, has the same force and effect as the original. If the party fails to comply with the requirements of Paragraph 3 of Subsection C, of this Section, a facsimile filing shall have no force or effect.

C.1. Within five days, exclusive of legal holidays, after the district office or the records management division have received a facsimile transmission, the party filing the document shall forward the following to the district office or records manager:

- a. the original signed document;
- b. the applicable filing fee, if any; and
- c. a transmission fee of \$5.

2. All pleadings filed with the court may be filed by facsimile transmission or electronic transmission (with verified signature) to the assigned facsimile number or electronic address of the district of proper venue.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999), amended LR 25:1862 (October 1999), LR 33:

##### **§5705. Abandonment**

A. A claim may be dismissed at the judge's discretion after contradictory hearing properly noticed by the court for lack of prosecution for the following reasons:

1. where no service of process and/or mediation has occurred within 60 days after the Form LDOL-WC-1008 has been filed. This provision shall not apply if the claim is awaiting action by the workers' compensation court;

2. - 3. ...

4. where a party fails to appear for a properly noticed conference;

5. where an attorney or pro se litigant fails to keep the workers' compensation court apprised of an address change may be considered cause for involuntary dismissal for failure to prosecute when a notice is returned to a party or the workers' compensation court for the reason of an incorrect address and no correction is made to the address for a period of 60 days.

B. - C. ...

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999), amended LR 25:1862 (October 1999), LR 33:

### **Subchapter B. Settlement**

#### **§5709. Joint Petition Settlements**

A.1....

2. The procedure for perfecting settlements shall be governed by R.S. 23:1272. A hearing in open court with all parties present shall be required when one or more parties is not represented by counsel. Appearance by the parties and/or their representative may be waived if all parties are represented by counsel. In special circumstances and in the interest of judicial economy, the judge may allow the unrepresented party to waive his appearance and permit the party to appear by telephone. Appearance by the represented parties and/or their representative may be waived in written form.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999), amended LR 25:1863 (October 1999), LR 33:

### **Chapter 58. Pleadings**

#### **Subchapter C. Forms**

##### **§5809. Forms**

A. The Office of Workers' Compensation Administration shall prepare and adopt such forms for use in matters before the Office of Workers' Compensation Administration as it may deem necessary or advisable. Whenever Office of Workers' Compensation Administration forms are prescribed and are applicable, they shall be used. A photo ready copy of any form may be procured upon request to any District Office, the office of the Director, or [www.laworks.net](http://www.laworks.net).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999), amended LR 25:1863 (October 1999), LR 33:

##### **§5811. Format of Documents**

A. Any pleading or other document submitted to the director or to any judge shall be typed or printed legibly on 8 1/2" x 11" paper and shall bear the name and signature of the person who prepared it, the firm name, if applicable, the complete address including the zip code, an electronic address, if available, the telephone and facsimile number, including the area code and the docket number, if one has

been assigned to the claim and the name of the judge assigned to the claim, if available. All attorneys shall note their bar roll number on all documents and correspondence.

B. ...

C. All documents filed into the court record that are notarized shall comply with R.S. 35:12.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:269 (February 1999), amended LR 25:1863 (October 1999), LR 33:

#### **Subchapter D. Mediation**

##### **§5813. Initial Mediation**

A. The district office of proper venue shall set the matter for an initial mediation conference with a mediator only if the claimant/injured employee or his representative submits a Request for Initial Mediation form to the district office within 15 "business" days of filing of a claim. Notice of a scheduled initial mediation may be given by telephone, but shall be confirmed by United States Mail, facsimile transmission or electronic transmission. The notice shall indicate the date, time, and place of the conference. Upon filing of the LDOL-WC-1008 any party to the claim and/or their representative may request a copy of the Form 1008 filed in the case. No such request shall be denied by an employee of the Office of Workers' Compensation Administration.

B. The purpose of the initial mediation conference shall be to mediate and encourage resolution of the dispute. As such the conference is designed for employees, employers and/or adjustors or claims managers. Within 24 hours of receipt of notice of the initial mediation conference, the employer shall notify his workers' compensation insurer or adjuster, in case of a self-insured, of the date, time and place of the conference.

C. The requested initial mediation conference may be subsequently waived. If waived, all parties must agree and must sign the Waiver of Initial Mediation Conference form. The signed Waiver of Initial Mediation Conference form may be mailed, faxed, or e-mailed to the address, fax number, or e-mail address of the district office where the dispute was filed within 48 hours prior to the date of the initial mediation conference. Non-appearance by a party at an initial mediation will be deemed a waiver of the mediation and the mediator shall immediately issue service of citation to all defendants.

D. The initial mediation conference may be held by telephone if agreed to by all parties to the claim and they are represented by an attorney or authorized claims representative. Notice should be given to the mediator that such agreement has been reached no later than five days prior to the mediation. The defendant must have available at the time of the mediation a facsimile machine to accept service. Telephone mediations shall not be permitted in claims where a party is unrepresented; except in special circumstances or in the interest of justice, the mediator may allow a party to appear by telephone. All parties to a telephone mediation shall provide the mediator with all information required by Subsection E of this Section prior to the scheduled mediation.

E. If available, the parties shall bring or mail to the office prior to the conference two legible copies of the

following: LDOL-WC-Form 1007, current medical bills and reports, information on workers' compensation benefits previously paid, wage records, vocational rehabilitation records and any other documents relevant to the issues of the claim. If the employer has failed to timely file a completed 1007, the employer shall be assessed a fine in accordance with LAC 40:I.109. Nothing contained in the Form LDOL WC-1007 shall be considered as an admission of any fact contained therein.

F. No stenographic report shall be taken at the initial mediation conference and no witnesses shall be called. All statements made at the mediation conference shall be privileged and shall not be admissible in any subsequent hearing or trial.

G. Continuances of the mediation conference may be permitted for good cause shown by written request to the mediator no later than three days prior to the conference, unless exigent circumstances exist. The request shall state the reasons the continuance is necessary, that all parties have been notified of the request, and whether all parties agree to the continuance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1863 (October 1999), amended LR 33:

##### **§5815. Pretrial Mediation**

A. A pretrial mediation shall be set not less than 30 days prior to trial. The pretrial mediation cannot be waived and all parties or their legal representatives must attend in person. The court shall provide notice of the date, time and place of the pretrial mediation to all parties at the same time and in the same manner.

B. No stenographic report shall be taken at the pretrial mediation conference and no witnesses shall be called. All statements made at the mediation conference shall be privileged and shall not be admissible in any subsequent hearing or trial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 33:

##### **§5817. Conclusion of Mediation Conference**

A. When it becomes apparent during the course of a mediation conference that agreement on all issues cannot be reached, the mediator shall issue a report stating the result of the conference and immediately issue citations to all defendants. The report shall be issued to the parties immediately following the conference or mailed within five days thereof.

B. When it becomes apparent during the course of a mediation conference that agreement on all issues cannot be reached, the mediator shall issue a report stating the result of the conference. If the parties agree, the judge, on his/her own order or the mediator may schedule additional mediation conferences when either deems necessary.

C. ...

D. If any proper party defendant is present or represented at the initial mediation conference, formal citation and service of process shall be made upon that defendant or its representative at that time. If the defendant(s) is participating by telephone, citation shall be waived and service shall be

accepted by facsimile. A signed waiver form shall be returned within 24 hours after the conclusion of the mediation by facsimile transmission. Citation and service of process shall be as provided in §5511. The affidavit of the mediator, facsimile confirmation, or waiver of service signed by the defendant or its authorized representative in any subsequent proceeding shall be prima facie evidence that service has been made in accordance with this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:269 (February 1999), amended LR 25:1864 (October 1999), LR 33:

#### **§5819. Failure to Attend; Sanctions**

A. If any party fails to appear at the pretrial mediation conference after proper notice and without just cause, the judge, upon report from the mediator, may fine the delinquent party an amount not to exceed \$500, which shall be payable to the Kids Chance Scholarship Fund of the Louisiana Bar Foundation. In addition, the judge may assess against the party failing to attend, costs and reasonable attorney's fees incurred by any other party in connection with the conference. The actions provided for in this Section shall be determined by the judge only after a contradictory hearing properly noticed by the court which shall be held prior to the hearing on the merits of the dispute unless waived upon joint motion of the parties. Appearance by the parties and/or their representative at the penalty hearing may be waived. The judge may entertain such action by telephone conference with all parties participating. Such telephone conference shall be initiated by the party requesting the telephone conference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1864 (October 1999), amended LR 33:

#### **Subchapter F. Exceptions**

##### **§5824. Rule to Show Cause; Time for Filing Memoranda**

A. Any party may seek to have any exception heard by filing a rule to show cause.

B. The memorandum in support shall be filed no later than 14 days prior to the hearing. The memorandum in opposition shall be filed no later than 8 days prior to the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 33:

#### **Subchapter G. Motions**

##### **§5831. Motion or Rule Day**

A. ...

B. The judge may require the parties to submit briefs in connection with any exception, rule, or motion. Briefs should be submitted as provided in §5824. A copy of the brief shall be served upon all counsel of record at the same time and in the same manner as submitted to the court.

C. ...

D. A motion for summary judgment shall be filed no later than 45 days prior to trial unless both parties agree to waive the deadline with the approval of the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended LR 25:1865 (October 1999), LR 33:

#### **§5835. Ex Parte and Contradictory Motions; Rule to Show Cause Favored**

A. Ex parte and contradictory motions shall be governed by Code of Civil Procedure Articles 963 et seq. A contradictory hearing properly noticed by the court with the adverse party may be held unless waived upon joint motion of the parties. Appearance by the parties and/or their representative may be waived in written form. The judge may entertain such motion by telephone conference with all parties participating. Such telephone conference shall be initiated by the party requesting the telephone conference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended LR 25:1865 (October 1999), LR 33:

#### **Chapter 59. Production of Evidence**

##### **Subchapter A. General**

##### **§5901. Discovery and Attendance of Witnesses**

A. The hearing process shall be available to aid any party in pursuit of discovery and to compel attendance of witnesses or production of evidence. The judge on his own motion at any conference may order the production of discoverable material and make any other order facilitating discovery. Copies of discovery documents, including, but not limited to, deposition notices, are to be mailed to all parties and shall not be filed in the record of the proceedings unless attached as an exhibit to a motion or ordered by the judge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:271 (February 1999), amended LR 25:1865 (October 1999), LR 33:

##### **§5905. Protective Orders**

A. Upon motion by a party or by a person from whom discovery is sought, and for good cause shown after contradictory hearing properly noticed by the court, the judge may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. The judge may entertain such motion by telephone conference with all necessary parties participating. Such telephone conference shall be initiated by the party requesting the telephone conference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999), amended LR 25:1865 (October 1999), LR 33:

##### **Subchapter B. Subpoena**

##### **§5909. Issuance; Service**

A. Subpoenas issued in connection with any workers' compensation matter shall be served by the party requesting issuance of the subpoena, and may be served by certified mail return receipt requested or any other manner provided

in §5511. Proof of service shall be the responsibility of the party requesting the subpoena. Once issued and served, a subpoena may be canceled by the requesting party only after written notice to the opposing side. It shall be the responsibility of the requesting party to provide written notification of cancellation to all opposing parties as well as the person under subpoena. It shall be the responsibility of the parties to copy each other on the subpoenas they issue.

B. In order to be enforceable, subpoenas for hearing shall be served seven days prior to the scheduled hearing date; subpoenas to compel attendance of medical experts shall be served 10 days prior to hearing. Subpoenas for hearing may be issued after expiration of these time limits only by leave of court for good cause shown or upon written consent of all parties.

C. Written request for unemployment records must be made to the workers' compensation court at least seven days prior to the scheduled hearing at which the documents sought are to be submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999), amended LR 25:1866 (October 1999), LR 33:

#### **Subchapter D. Depositions**

##### **§5927. Expert Witness Fee**

A. For just cause shown, the workers' compensation judge may set a reasonable witness fee for expert testimony.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 33:

#### **Subchapter F. Production of Documents**

##### **§5933. Production of Documents; General; Medical Evidence**

A. ...

B. Objection to medical evidence shall be as provided in R.S. 23:1122. When a timely objection is received, the judge may set a hearing on the motion, or rule on the matter at the trial on the merits. The judge further has the discretion to order, after a contradictory hearing properly noticed by the court, a deposition of the doctor if necessary to clarify a report or to obtain additional information, during the discovery period or at the trial on the merits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999), amended LR 25:1866 (October 1999), LR 33:

#### **Subchapter I. Motion to Compel**

##### **§5955. Motion for Order Compelling Discovery**

A. ...

B. Prior to filing a motion to compel discovery, a party shall comply with Rule 10.1 of the Rules for Louisiana District Courts adopted by the Louisiana Supreme Court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended LR 25:1867 (October 1999), LR 33:

#### **Subchapter J. Sanctions**

##### **§5961. Refusal to Obey Subpoena**

A. When a person who, without reasonable excuse, fails to obey a subpoena, the judge may proceed with contempt proceedings as provided in R.S. 23:1310.7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999), amended LR 25:1867 (October 1999), LR 33:

##### **§5963. Failure to Comply with Order Compelling Discovery**

A. Failure to comply with order compelling discovery shall be governed by Code of Civil Procedure Article 1471. In addition, the judge may proceed with contempt proceedings as provided in R.S. 23:1310.7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999), amended LR 25:1867 (October 1999), LR 33:

#### **Chapter 60. Pretrial Procedure**

##### **§6001. Scheduling Conferences**

A. Within 60 days following receipt of the answer a scheduling conference for the purpose of setting pretrial deadlines shall be held by telephone.

B. Issues to be considered and determined at the scheduling conference may include:

1. - 3. ...

4. scheduling of the pretrial conference and the scheduling of a pretrial mediation conference;

5. ...

6. the need for and scheduling of a pretrial conference;

7. such other matters as may aid in the disposition of the action.

C. ...

D. The judge in his discretion may require a pretrial conference to be held by telephone.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1867 (October 1999), amended LR 33:

##### **§6003. Conferences or Hearings by Telephone**

A. All conferences, except the pre-trial mediation, or hearings may be held by telephone. Where there are more than two attorneys participating in the conference, it shall be conducted by telephone conferencing initiated by the counsel for the employer or insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999), amended LR 25:1868 (October 1999), LR 33:

##### **§6005. Pretrial Conference**

A. When requested by the court, each party to the dispute shall file a pretrial statement with the appropriate district office within the time frame designated by the court.

B. ...

C. The pretrial conference will be held by telephone, unless in the judge's discretion, attendance at the conference is necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended LR 25:1868 (October 1999), LR 33:

#### **§6007. Pretrial Order**

A. - A.3 ...

4. a list and brief description of all exhibits to be offered at trial; Exhibits to be used for impeachment or rebuttal need not be included in the list. Proposed stipulations as to exhibit authenticity and/or admissibility shall be noted in the exhibit list;

5. a list of all witnesses to be called at trial. The list shall include a short statement as to the nature but not the content of their testimony, and whether the testimony will be live or by deposition. Except for the witnesses listed, no other witnesses may be called to testify except for good cause shown. This requirement shall not apply to impeachment and rebuttal witnesses;

6. outstanding discovery and depositions to be taken.

B. Amendments to the pretrial statement shall only be by written motion and permitted only for good cause shown. No new issues shall be raised except by written order of the judge for good cause or upon mutual agreement of the parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended LR 25:1868 (October 1999), LR 33:

#### **§6009. Pretrial Mediation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended LR 25:1868 (October 1999), repealed LR 33:

### **Chapter 61. Hearings**

#### **Subchapter A. Expedited Hearings**

##### **§6101. Examination of an Injured Employee**

A. The examination of an injured employee shall be governed by R.S. 23:1124.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1868 (October 1999), amended LR 33:

#### **Subchapter B. Continuance**

##### **§6103. General**

A. - C. ...

D.1. If all parties are represented by counsel and the motion is uncontested, the moving party shall certify to the court that he has spoken to opposing counsel, that no opposition exists and that all witnesses have been timely notified of the continuance. The uncontested motion shall be granted.

2. If any of the parties are unrepresented, the uncontested motion may be granted if there are good

grounds therefore and if the workers' compensation judge believes it is in the best interest of the parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended LR 25:1868 (October 1999), LR 33:

### **Chapter 62. Trial**

#### **Subchapter A. Trial Procedure**

##### **§6201. General**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999), amended LR 25:1869 (October 1999), repealed LR 33:

##### **§6209. Testimony of Medical Personnel**

A. ...

1. certified medical records;

2. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999), amended LR 25:1869 (October 1999), LR 33:

#### **Subchapter B. Dismissal**

##### **§6211. Dismissal**

A. Except as provided in §5705, dismissals shall be governed by Code of Civil Procedure Articles 1671 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999), amended LR 25:1869 (October 1999), LR 33:

### **Chapter 63. Judgments**

#### **Subchapter A. General**

##### **§6301. Submission of Evidence; Submission for Judgment/Decision; Post Hearing Briefs**

A. The parties shall file into the record all evidence at the time of trial or hearing unless the court, for good cause shown, grants an extension.

B. A case or other matter shall be considered as having been fully submitted for decision immediately upon the conclusion of trial or hearing or final submission of all evidence or post-trial/hearing briefs, whichever occurs latest.

C. Whenever, the judge allows or orders post-trial/hearing briefs, the parties shall be allowed a maximum of 15 working days from the conclusion of the trial or final submission of all evidence, whichever occurs latest, to file the briefs.

D. The brief must be received in the district office either through the United States Postal Service, facsimile transmission, or electronic transmission (with verified signature) within the delays provided and without benefit of the use of the postmark to meet the deadline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended LR 25:1869 (October 1999), LR 33:

**§6303. Completion of Trial; Pronouncement of Judgment; Time for Judgments or Orders; Written Reasons**

A. The procedures for completion of trial and pronouncement of judgment shall be governed by R.S. 23:1310.5.A.(1) and 1201.3.A. All such orders, decisions, or awards shall be rendered no later than 45 calendar days after conclusion of trial, submission of all evidence or filing of post-trial/hearing briefs, whichever occurs later.

B. Written reasons shall only be rendered if requested in written form by any party to the claim within 10 days of the signing of the judgment. The written reasons shall be issued by the judge not later than 45 calendar days following the request.

C. After the submission of all evidence oral rulings may be issued from the bench immediately after the trial or subsequent to the trial. In either case, the oral ruling shall be made by recitation of the reasons for judgment in open court and capable of being transcribed from the record of the proceeding. The transcript of the oral reasons for judgment may be considered the written reasons for judgment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended LR 25:1869 (October 1999), LR 33:

**Subchapter C. Modification**

**§6311. General**

A. The modification of an award shall be governed by R.S. 23:1310.8(A)(1), (B) and (F).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended LR 25:1870 (October 1999), LR 33:

**§6315. Request for Modification**

A. Any party to the claim may apply for modification pursuant to §6311. If the original decision or award was made by a district court judge, the party seeking the modification shall furnish the workers' compensation judge with the appropriate evidence and documents from the district proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended LR 25:1870 (October 1999), LR 33:

**§6317. Exception**

A. A motion for new trial shall be governed by Code of Civil Procedure Articles 1971 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended LR 25:1870 (October 1999), LR 33:

**Chapter 65. Special Disputes**

**Subchapter A. Attorney Fees**

**§6501. Disputed Attorney Fees**

A. When a dispute arises among several attorneys as to the identity of claimant's counsel of record, or when several

successive attorneys lay claim to a fee in the same case, the judge shall decide the issues raised and allocate the fee allowed in accordance with Rule 1.5 of the Rules of Professional Conduct of the Louisiana Supreme Court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:280 (February 1999), amended LR 25:1870 (October 1999), LR 33:

**Subchapter B. Social Security Offset**

**§6507. Offset**

A. A request for offsets pursuant to R.S. 23:1225(C) made in connection with a disputed claim shall be made by filing Form LDOL-WC-1008 or by responsive pleading. An order shall be issued recognizing the entitlement to the offset for social security benefits from the date of judicial demand, and setting the amount of the offset after a determination of the character of the disability, the right to the offset, and calculation of the offset. A contradictory hearing properly noticed by the court may be set by the judge for this determination. Notice shall be provided to the claimant or his representative prior to issuance of the order. The order shall be served by certified mail upon all parties and the Social Security Administration. Such offsets may be taken upon receipt of proof of service of the order upon the Social Security Administration by the Office of Workers' Compensation Administration. Such offsets shall not be taken unless the social security offset has been removed.

B. A request for offsets pursuant to R.S. 23:1225(A) made in connection with a claim not in dispute may be made by motion on form LDOL-WC-1005(A) or by letter, filed in the appropriate district office. When properly filed, the motion or letter requesting an offset may be granted ex parte from date of filing. Such offsets shall not be taken unless the social security offset has been removed. No fee shall be charged in connection with a request made under this Subsection.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended LR 25:1871 (October 1999), LR 33:

**Subchapter C. Financial and Compliance Hearings**

**§6509. Financial and Compliance Hearings**

A. An initial mediation conference shall be held within 15 days of the filing of an appeal for financial and compliance matters.

B. If a resolution is not reached, a hearing on the appeal held pursuant to R.S. 23:1171 shall be held within 15 days of the conclusion of the initial mediation conference, and shall be conducted in accordance with the provisions of the Administrative Procedure Act.

C. Suspensive appeals of a determination of the financial and compliance officer will not be entertained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended LR 25:1871 (October 1999), LR 33:

**Chapter 66. Miscellaneous**

**Subchapter A. General**

**§6607. Posting of Docket**

A. The clerk of the district office shall keep a docket upon which shall be entered the docket reference number of all matters set for mediation, hearing, or trial. The docket shall be posted on the Department of Labor website and in a conspicuous location of the district office on the first work day of each week for that week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended LR 25:1871 (October 1999), LR 33:

**Subchapter B. Costs**

**§6611. Medical Costs**

A. Except as provided in R.S. 23:1034.2(E), the determination of all medical reimbursement shall be based upon the reimbursement schedule in effect at the time the services are rendered. Every attempt to resolve disputes over medical reimbursement shall be made by applying said schedule(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended LR 25:1872 (October 1999), LR 33:

**Subchapter C. Waiver of Costs for Indigent Party**

**§6613. General**

A. Waiver of costs for indigent party shall be governed by Code of Civil Procedure Articles 5181 et seq. The request for waiver of costs shall be made on WC Form No. 1027.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended LR 25:1872 (October 1999), LR 33:

**Family Impact Statement**

1. The Effect on the Stability of the Family. The proposed amendments to the hearing rules for the Office of Workers' Compensation Administration will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. The proposed amendments to the hearing rules for the Office of Workers' Compensation Administration 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. The proposed amendments to the hearing rules for the Office of Workers' Compensation Administration will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed amendments to the hearing rules for the Office of Workers' Compensation Administration will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed amendments to the hearing rules for the Office of Workers' Compensation Administration will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The family or a local government is not able to perform the functions contained in the proposed amendments to the hearing rules for the Office of Workers' Compensation Administration.

Inquiries concerning the proposed repeal and enactment may be directed to Karen Reiners Winfrey, Assistant Secretary, Office of Workers' Compensation Administration, Louisiana Department of Labor, P.O. Box 94040, Baton Rouge, LA 70804-9040.

Interested persons may submit data, views, arguments, information or comments on the proposed repeal and enactment in writing, to the Louisiana Department of Labor, P.O. Box 94040, Baton Rouge, LA 70804-9040, Attention: Karen Reiners Winfrey, Assistant Secretary, Office of Workers' Compensation Administration. Written comments must be submitted and received by the department within 10 days from the date 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 department within 20 days of the date on this notice.

John Warner Smith  
Secretary of Labor

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Workers' Compensation  
Court Hearing Procedures**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There will be no financial impact on State or Local governmental units. These amendments relate to the procedural rules of court for the Office of Workers Compensation Administration.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no financial impact on revenue collections of state of local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no financial impact on economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no financial impact on competition and employment.

John Warner Smith  
Secretary  
0701#031

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**  
**Department of Natural Resources**  
**Office of Conservation**

Statewide Order No. 29-B—Procedures for Hearings  
and the Submission and Approval of Plans  
for the Remediation of E&P Sites  
(LAC 43:XIX.Chapter 6)

The Louisiana Office of Conservation proposes to amend LAC 43:XIX.Subpart 1 (Statewide Order No. 29-B) to include a new Chapter, i.e. LAC 43:XIX.Chapter 6, in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq. and pursuant to power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Sections 30:4 et seq. The proposed amendment will standardize regulatory procedures for hearings for exploration and production site evaluation or remediation plans submitted for Office of Conservation approval subject to the statutory provisions of Act 312 of 2006 under R.S. 30:29.

**Title 43**  
**NATURAL RESOURCES**

**Part XIX. Office of Conservation—General Operations**  
**Subpart 1. Statewide Order No. 29-B**  
**Chapter 6. Procedures for Hearings and the**  
**Submission and Approval of Plans for the**  
**Remediation of E&P Sites in Accordance**  
**with LSA-R.S. 30:29**

**§601. Authority**

A. These rules and regulations are promulgated by the commissioner of conservation pursuant to the Administrative Procedure Act as contemplated in R.S. 30:4 and 30:29.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

**§603. Definitions**

A. The words defined herein shall have the following meanings when used in these rules. All other words so used and not herein defined shall have their usual meanings unless specially defined in Title 30 of Louisiana Revised Statutes of 1950.

*Affected Tract*—any real property known or reasonably believed to have suffered environmental damage as defined in R.S. 30:29.

*Date*—the postmarked date of a letter or the transmittal date of a telegraphic or wireless communication.

*Environmental Damage*—any actual or potential impact, damage, or injury to environmental media caused by contamination resulting from activities associated with oilfield sites or exploration and production sites.

*Environmental Media*—include but not be limited to soil, surface water, ground water, or sediment, or as defined in R.S. 30:29.

*Evaluation or Remediation*—include but not be limited to investigation, testing, monitoring, containment, prevention, or abatement.

*Feasible Plan*—the most reasonable plan which addresses environmental damage in conformity with the requirement of Louisiana Constitution Article IX, Section 1

to protect the environment, public health, safety and welfare, and is in compliance with the specific relevant and applicable standards and regulations promulgated by a state agency in accordance with the Administrative Procedure Act in effect at the time of clean-up to remediate contamination resulting from oilfield or exploration and production operations or waste.

*Final Submission*—the last day on which any litigation party may submit a plan, comment, or response to a plan as provided by the orders of the court.

*Litigation Party*—any party to a judicial proceeding subject to R.S. 30:29 and who is not a responsible party as defined herein.

*Oilfield Site or Exploration and Production (E&P) Site*—any tract of land or any portion thereof on which oil or gas exploration, development, or production activities have occurred, including wells, equipment, tanks, flow lines or impoundments used for the purposes of the drilling, workover, production, primary separation, disposal, transportation or storage of E&P wastes, crude oil and natural gas processing, transportation or storage of a common production stream of crude oil, natural gas, coal seam natural gas, or geothermal energy prior to a custody transfer or a sales point. In general, this definition would apply to all exploration and production operations located on the same lease, unit or field.

*Party—responsible parties and litigation parties* as defined herein.

*Plan*—any submittal made in accordance with R.S. 30:29 and these rules for the evaluation or remediation of an affected tract as defined herein.

*Responsible Party*—the party or parties admitting responsibility for environmental damage or determined by the court to be legally responsible for environmental damage pursuant to R.S. 30:29.

*Represented Party*—any responsible party or litigation party who is represented by an attorney in the court matter that has been referred pursuant to R.S. 30:29 or before the Office of Conservation.

*Technical Data*—all basic factual information available that may be used to determine the levels of contamination and the vertical and horizontal extent of the contamination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

**§605. Applicability**

A. These rules of procedure shall be applicable to all hearings held by the Commissioner of Conservation pursuant to R.S. 30:29 (Act 312 of 2006). The posting and publication of a copy of the notice of hearing shall be accomplished as soon as practicable after such notice has been issued by the commissioner.

B. These rules of procedure shall in no way alter or change the right of any interested person, as provided in Paragraph F, Section 6 of Chapter 1 of Title 30 of the Louisiana Revised Statutes of 1950, to have the Commissioner of Conservation call a hearing for the purpose of taking action in respect to a matter within the jurisdiction of the commissioner, nor the requirement that the commissioner, upon receiving the request, promptly call a hearing. In addition, these rules shall in no way alter any other rights or claims, contractual or otherwise, which any

person has or may have except as provided in R.S. 30:29 (Act 312 of 2006).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

#### **§607. Commissioner's Conference**

A. The general purpose of the Commissioner's Conference shall be to set a hearing date and to set deadlines for the release of technical data, hearing notices, filing of all plans, witness and exhibit lists, and any other preliminary matters necessary and appropriate to the hearing not otherwise addressed by these rules.

B. As soon as practicable after the final submission, the commissioner shall schedule a Commissioner's Conference and notify each party of the date and time of the conference.

C. Notice of the Commissioner's Conference shall be mailed to each responsible party and litigation party or their representatives stating the time and place of the conference.

D. Each responsible party or their representative is required to participate in the Commissioner's Conference.

E. Any litigation party may participate in the Commissioner's Conference, even if such party has not requested the Commissioner's Conference.

F. The commissioner, or hearing officer appointed by the commissioner, shall have the right to call any other pre-hearing conferences at any time prior to the hearing, if in his opinion such a conference would resolve or narrow the issues in controversy or would assist in the conduct of the hearing.

G. Conferences held pursuant to these rules are designed to promote an open exchange of views among the parties; therefore, any reference to discussions among the parties as to the bases for a party's position at said conferences shall not be admissible in evidence at any hearing. Tape recordings and transcriptions made at any such conference also shall not be admissible in evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

#### **§609. General Requirements of Plans**

A. Plans shall be filed within the time limit set by the court and shall be filed with the commissioner. A copy shall be mailed or delivered to each party. Any party submitting a plan shall submit at least three hard copies of the technical data and plan, as well as an acceptable electronic copy to the commissioner. In addition to outlining the purpose thereof, plans shall include the information required by §615 and shall include or be accompanied by the following:

1. a statement that a reasonable effort has been made to obtain a complete list of parties;

2. a statement that a Commissioner's Conference has or has not been held, and if held, a list of the parties in attendance;

3. a plat prepared in accordance with all applicable memoranda, with any technical data labeled thereon and the other items required by statute or by the commissioner;

4. a statement that the plan is to evaluate or remediate the environmental damage in accordance with the requirements of the applicable rules and regulations of the Office of Conservation or, if the plan seeks to apply rules

and regulations of another Louisiana state agency, a citation to the specific rules and regulations of that state agency.

B. If a proposed plan is revised by any party, the revised plan shall be submitted as amended to the Commissioner of Conservation and forwarded to the parties in the same manner as the original plan with a revised plat.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

#### **§611. Specific Requirements of Plans**

A. The Commissioner of Conservation shall consider only those plans filed in a timely manner and in accordance with these rules and orders of the court.

B. Except as provided in §611.F, each plan or submittal of any Responsible Party or any Litigation Party shall be evaluated in accordance with Statewide Order 29-B. Sampling and testing shall be performed in accordance with Statewide Order 29-B. Each plan shall fully delineate the vertical and horizontal extent of the environmental damage.

C. All Statewide Order 29-B sampling shall be in accordance with applicable guidelines as provided in the latest revision of the Department of Natural Resources laboratory procedures manual titled "Laboratory Procedures for Analysis of Exploration and Production Waste" and shall contain a plat showing the physical location from which such samples were obtained, provided that any sampling performed prior to the adoption of this Chapter may be considered by the commissioner in approving or structuring a plan if the commissioner determines that such sampling was conducted in accordance with a scientifically reliable methodology.

1. In addition, information as to the identity of the person or company taking the samples, a copy of the certification of such person or company taking such samples (if applicable), and documentation showing the method of sampling, the chain of custody and all other such relevant information shall be included.

D. All Statewide Order 29-B sample analyses shall be in accordance with applicable regulatory requirements and the latest revision of the Department of Natural Resources laboratory procedures manual titled "Laboratory Procedures for Analysis of Exploration and Production Waste" and shall be performed by a DEQ LELAP accredited laboratory holding current accreditation for each parameter and corresponding test method used, provided that any sample analyses performed prior to the adoption of this Chapter may be considered by the commissioner in approving or structuring a plan if the commissioner determines that such sample analyses was conducted in accordance with a scientifically reliable methodology.

1. All Statewide Order 29-B test results shall also contain a report certified by the testing laboratory including, at a minimum, a description of the testing process or methodology, by whom such testing was conducted, a copy of the laboratory's accreditation to conduct the described test, and all applicable required quality assurance/quality control data.

E. Each plan shall contain a separate section analyzing the sampling and testing as set forth in C and D above by comparison with the applicable Statewide Order 29-B criteria.

F. Any plan submitted by any party, or approved or structured by the commissioner, shall comply with the standards set forth in Statewide Order 29-B. Any party that seeks an exception under the provisions of §319 of Statewide Order 29-B shall submit:

1. a plan that complies with all the provisions of Statewide Order 29-B, exclusive of §319; and

2. a separate plan that includes:

a. sufficient proof that there is good cause to grant an exception or exceptions sought under §319;

b. sufficient proof showing that the exception or exceptions sought under §319 do not endanger USDWs; and

c. a specific citation to the Louisiana rules, regulations or statutes sought to be applied in lieu of Statewide Order 29-B.

G. All plans shall also contain:

1. a chronological work schedule or proposal for a chronological work schedule detailing all activities necessary for its implementation and an estimated cost for each item;

2. a comprehensive itemized cost basis for each item listed in Paragraph G.1;

3. a certification of review and approval by signature from an attorney licensed to practice law in Louisiana, or an attorney from another jurisdiction who has been authorized to appear before the commissioner, worded as follows:

"I, \_\_\_\_\_, have reviewed the information submitted herewith and hereby attest that to the best of my knowledge, information and belief it is true and correct and is based on scientific data that has been obtained in a manner compliant with all applicable regulations."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

### **§613. General Requirements of Comments and Responses**

A. Comments or responses shall be filed within the time limit set by the court and shall be filed with the commissioner and the court with a copy to each party. Any party filing a comment or response shall submit to the Commissioner of Conservation at least three hard copies of the comment or response and any data utilized as provided in §617, as well as an acceptable electronic copy to the commissioner. In addition to outlining the purpose thereof, the comments or responses shall, in addition to the information required by §615 include or be accompanied by the following:

1. a statement that a reasonable effort has been made to obtain a complete list of parties;

2. a plat prepared in accordance with all applicable memoranda, with any technical data labeled thereon and the other items required by statute or regulation or by the commissioner, if different from the plan on which the comments or responses are made;

3. a statement that the comment or response is to evaluate or remediate the environmental damage in accordance with the requirements of the applicable rules and regulations of the Office of Conservation or, if the comment or response seeks to apply rules and regulations of another Louisiana state agency, a citation to the specific rules and regulations of that state agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

### **§615. Notice of Filing a Plan, Comment or Response**

A. Any litigation party filing a plan, comment or response pursuant to R.S. 30:29 shall also mail or deliver a copy to each litigation party or their representatives. If a representative represents more than one party, only one copy need be sent, unless otherwise ordered by the court.

B. Each plan, comment or response shall include a list of all parties to whom it is being provided and their addresses and other contact information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

### **§617. Release of Technical Data**

A. Technical data regarding any plan, comment or response shall be provided to each party at the cost of the party sending such technical data at the time the plan, comment or response is filed with the commissioner and the court.

B. If the plan, comment or response utilizes data from another previously or concurrently filed plan, comment or response, a specific reference to the location of the data in those other filings will suffice to meet the requirements of this rule.

C. Reference to the source or sources, including commercial outlets, from whom such technical data can be obtained shall be included in the documentation required by these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

### **§619. Revisions to Plans, Comments or Responses Thereto**

A. If, after any plan, comment or response is filed, such plan, comment or response is revised, the party revising the plan, comment or response shall promptly notify the commissioner and all parties to whom the plan, comment or response was sent, of the revision. The revising party shall furnish the commissioner at least three hard copies and one acceptable electronic copy of the data and revised plan, comment or response, and any technical data used to support the revision. The revising party shall also provide the court and all parties a copy of any revised plan, comment or response and any technical data used to support the revision. The revising party shall, if requested by the commissioner, participate in an additional Commissioner's Conference to discuss the revised plan, comment or response prior to the hearing. No revised plan, comment or response may be considered at the hearing unless notice of the revision has been sent to the commissioner, the court and to all parties to whom the legal notice is required at least ten days prior to the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

### **§621. Mandatory Disclosures and New Evidence**

A. All technical data available to any party filing a plan, comment or response shall be disclosed to all parties on or before the date such plan, comment or response is filed with

the commissioner, regardless of whether such technical data is used or referenced in such plan, comment or response.

B. If new technical data becomes available to any party after proceedings have been initiated hereunder, such technical data shall be made available immediately to all parties by notice of its availability and by release in accordance with §617. Such technical data may be used by any party at the hearing and may be the basis for revision of plans, comments or responses previously made by any party. Subject to the time limitations set forth in R.S. 30:29, the commissioner in his discretion may determine that additional time should be afforded for consideration of new technical data. The commissioner in his discretion may also establish a time limit beyond which new technical data may not be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

### **§623. Hearing Officer**

A. The Commissioner of Conservation may designate a licensed Louisiana attorney to act as hearing officer in any hearing or at any conferences under these rules.

B. The duties of the hearing officer include, but are not limited to, conducting any Commissioner's Conference provided under these rules, ruling on evidentiary or procedural matters, maintaining order at the hearings, and generally ensuring that an accurate record is made of the proceedings under these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

### **§625. Costs**

A. At least 15 days before the scheduled hearing, the Commissioner of Conservation shall provide the court and litigation parties a schedule of its estimated costs for the review and evaluation of any plans, comments or responses, hearing costs as well as any other costs the Commissioner of Conservation is expected to incur. The responsible party shall deposit sufficient funds in the registry of the court, or, with the approval of the court, may submit such funds directly to the Commissioner of Conservation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

### **§627. Plan Approvals**

A. Within 60 days of the conclusion of the hearing, or within such longer time as the court allows, the Commissioner of Conservation shall either approve a submitted plan as the most feasible plan or structure a plan which, based on the evidence submitted on the record, the commissioner determines to be the most feasible plan and shall further issue written reasons for the plan he approves or structures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

### **§629. Rehearing**

A. Requests for rehearing by any party shall not be considered by the Commissioner of Conservation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

### **§631. Timeliness of Filings**

A. All notices and filings provided for herein shall be presumed to be timely when the postmark date or actual date of receipt, if hand delivered, of the copy received by the commissioner complies with appropriate delays herein provided. Copies required to be provided to the parties shall be deposited on the same date in the United States mail, properly stamped and addressed, or, if telegraphic or wireless communication is used, dispatched on that date by the transmitting party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

### **§633. Notice of Hearings and Continued Hearings**

A. In addition to the publication of the legal notice by the commissioner in the official state journal, the responsible party or parties shall provide for the posting of a copy of the legal notice of the hearing and a plat or plats in a prominent place in the area affected, and shall cause to be published at least 15 days before the hearing a copy of the legal notice in a newspaper published in the vicinity or general area of the affected tract or tracts. The responsible party or parties shall mail copies of the legal notice to all parties and a copy of the plat or plats shall be included with the legal notice, if said parties have not already been furnished same. Evidence to establish posting, publishing and mailing shall be submitted at the hearing.

B. When a hearing is opened and continued, the notice given for the original hearing shall be applicable to the continued hearing, if the hearing officer at the time of granting the continuance designates the new time, date and place of the continued hearing. In all other instances of a continued hearing, the responsible party or parties shall at least 15 days before the hearing provide notice of the continued hearing by posting such notice in a prominent place in the area affected, by publishing such notice in a newspaper published in the vicinity or general area of the affected tract or tracts and by mailing such notice to all parties.

C. In no case shall a hearing be held more than 60 days from the date of the final submission without the express approval of the trial court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

### **§635. Rules of Hearing Conduct and Procedure**

A. The responsible party or parties shall first present the entire scientific, technical or other bases of their plan or plan(s).

B. Any litigation party or parties who have filed a comment in support of any responsible party's plan or plans shall then present the entire scientific, technical or other bases for their support and shall do so immediately after the responsible party or parties have completed their presentations.

C. Any litigation party who has submitted a plan or plans shall then present the entire scientific, technical or other

bases thereof. If any litigation party has filed a comment in opposition to any responsible party's plan or plans, such party shall then present their entire scientific, technical or other bases for such opposition. Any litigation party who has filed a comment in support of a litigation party's plan shall then present the entire scientific, technical or other bases for such support.

D. Each responsible party shall then have the opportunity to provide rebuttal evidence in response to the opposition to its plan or plans, or in response to any plan offered by any litigation party.

E. The litigation party filing the plan shall then have the opportunity to provide rebuttal evidence in response to the opposition to its plan.

F. All rebuttal scientific, technical or other testimony, shall be strictly limited to a refutation of the matters covered by the opponents.

G. Any witness shall be subject to examination by the commissioner or any member of his staff and by no more than two representatives of a party. Cross-examination shall be conducted in accordance with the following guidelines.

1. Cross-examination shall be limited to questions concerning the testimony and exhibits presented by the witness, testimony and exhibits presented by any other witness and the credibility of the witness.

2. Matters peculiarly within the knowledge of the cross-examiner or his witnesses shall be presented by them on direct examination, and there shall be no attempt to establish such matters by cross-examination.

3. Cross-examination shall be conducted in a polite and courteous manner without reference to personalities of the witness or the party represented by the witness.

H. After the litigation parties have all made their presentations, any party shall be afforded an opportunity to make a statement. If such a statement includes technical data, the party shall be subject to being sworn and cross-examined, provided that attorneys representing a party or parties shall not be subject to cross examination.

I. The litigation parties and responsible parties may make opening statements. The litigation parties and responsible parties may also make closing statements concerning their positions, but such statements shall not include technical matters which have not been presented by sworn testimony. The responsible parties shall have the right to make the last closing statement. If there is more than one litigation party or responsible party, the parties may agree on the sequence in which opening or closing statements are presented, or the commissioner or hearing officer shall determine the sequence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

#### **§637. Penalty for Non-Compliance**

A. Failure to comply with the provisions of or the spirit of these rules of procedure may prevent plan, comment or response from being advertised or heard, or may prevent a party from presenting evidence at the hearing, but any approval or structure of a plan issued by the commissioner shall not be invalid by operation of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

#### **§639. Time of Commencement**

A. The procedures set forth in these rules shall commence upon final submission date as provided in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

#### **§641. Coverage of Rules**

A. Nothing contained in these rules shall in any way limit the authority of the commissioner of conservation to independently initiate any civil or administrative proceeding or to initiate any civil enforcement action.

B. Nothing in these rules shall in any way limit the Office of Conservation from independently responding to an inquiry or request by a landowner or any other person for investigation of alleged environmental damage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

The Commissioner of Conservation will conduct a public hearing at 10 a.m., Wednesday, February 28, 2007, in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at the public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., Wednesday, March 7, 2007, at Office of Conservation, Injection and Mining Division, PO Box 94275, Baton Rouge, LA, 70804-9275; or Office of Conservation, Injection and Mining Division, 617 North Third St., Room 817, Baton Rouge, LA 70802. Reference Docket No. IMD 2007-01 on all correspondence.

James H. Welsh  
Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Statewide Order No. 29-B—Procedures for Hearings and the Submission and Approval of Plans for the Remediation of E and P Sites**

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

No additional implementation costs (savings) to State or Local government units are anticipated to implement the proposed rule amendment.

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

There will be no anticipated 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)**

No costs or economic benefits to directly affected persons or non-governmental groups are anticipated. The proposed rule

amendment will standardize hearing procedures required of the Office of Conservation following passage of SB655 of the 2006 Regular Session (Act 312 of 2006).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will no effect on competition and employment.

James H. Welsh  
Commissioner  
0701#052

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Corrections Services**

Community Resource Centers (LAC 22:I.340)

Editor's Note: This Notice of Intent is being republished to correct an error upon submission. The original Notice of Intent may be viewed on pages 2153-2155 in the November 2006 edition of the *Louisiana Register*.

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Louisiana Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to promulgate the contents of §340.

The purpose of this regulation is to establish the secretary's policy regarding the enactment of Community Resource Centers for eligible inmates to participate in emergency disaster relief efforts and to provide procedures regarding housing for those inmates who participate in such relief efforts.

**Title 22**

**CORRECTIONS, CRIMINAL JUSTICE AND LAW  
ENFORCEMENT**

**Part I. Corrections**

**Chapter 3. Adult and Juvenile Services**

**Subchapter A. General**

**§340. Community Resource Centers**

A. Purpose. To establish the secretary's policy regarding the enactment of Community Resource Centers for eligible inmates to participate in emergency disaster relief efforts and to provide procedures regarding housing for those inmates who participate in such relief efforts.

B. Applicability. Chief of operations, undersecretary, assistant secretary, regional wardens, wardens and the Director of Probation and Parole. Each unit head shall ensure that appropriate procedures are in place to comply with the provisions of this regulation.

C. Definitions

*Advance Support Team*—advance support teams secure appropriate housing, coordinate the delivery of necessary supplies, and address and/or assess current situations and conditions, as well as assess future needs. The team shall consist of a security supervisor and maintenance staff member. Other staff and/or inmates may be included as deemed necessary by the chief of operations, regional wardens and/or the warden.

*Inmate Crews*—inmate crews may be composed of any inmates that are classified as minimum custody at their assigned housing unit except for inmates prohibited from

participation as provided for in Paragraph E.1. Eligible inmates are subject to placement on the crews regardless of their usual work assignment. Additionally, inmates are required to be on a regular duty status and be medically capable of performing emergency disaster relief work.

*Minimum Custody*—generally, assignment of an inmate to a dormitory housing area. Movement outside of a secure perimeter is usually authorized without armed supervision or restraint. Institutional procedure governs the level of staff supervision when outside the secure perimeter, as well as internal movement controls.

D. Policy. It is the secretary's policy to establish Community Resource Centers for inmates to remediate the damage done following a natural disaster or emergency. The use of inmate labor will augment governmental personnel, private sector firms and community volunteers conducting remediation activities during the period immediately after such disaster. Inmate labor will not replace existing employees, be utilized on a project or job involved in a labor dispute, or supplant post disaster remediation activities that may otherwise be performed under contract by private sector firms employed by an affected individual or governmental entity.

E. Procedures

1. Inmates convicted of a crime of violence or convicted of a sex offense shall not be eligible to participate in the Community Resource Centers program.

2. Each unit shall determine the approximate number of inmates available for assignment to an inmate crew and develop appropriate inmate and staffing rosters. Information concerning the number of crews available from each facility shall be forwarded each May to the chief of operations for inclusion in the Incident Management Center (IMC) Resource Manual.

3. Inmate crews shall not exceed 10 inmates for each correctional officer supervising them.

4. In accordance with the Louisiana Homeland Security and Emergency Assistance and Disaster Act, after the governor has declared a disaster or emergency pursuant to executive order or proclamation, Community Resource Centers may be established in the parish where the work will be performed.

5. At the direction of the secretary or designee, the IMC will contact the appropriate warden with information relative to disaster relief needs of the affected area and/or the necessity of establishing a Community Resource Center.

6. Upon receiving the instructions from the IMC, the warden will activate the advance support team, other necessary personnel, and inmate crews.

7. Inmate crews that are deployed to a community or area more than two hours travel time from the unit or for an extended period may require housing in that area. The advance support teams will coordinate with the parish Office of Emergency Preparedness (OEP), local law enforcement, and district probation and parole office for accessing available housing resources.

8. The warden shall ensure that supervising staff of each inmate crew receive documentation for each inmate that includes an identification picture and master prison record sheet. In addition he will receive any medications that the inmates may have prescribed to them.

9. The wardens shall ensure that logs of inmate crew activities are maintained.

10. Wardens shall be responsible for providing transportation for each inmate crew. In addition, each unit shall be responsible for providing their own communications equipment such as 800 radios, cell and/or satellite telephones.

11. A unit may be required to make available an EMT or nurse to provide emergency medical care to the inmate crews in the area.

12. The IMC may coordinate with the Division of Probation and Parole for any additional security support needed at a Community Resource Center.

13. Inmate crew remediation assignments shall be coordinated by unit personnel on site through the state and/or local OEP. This information shall be forwarded to the unit, the IMC, and local law enforcement.

14. The rank structure for supervision of the Community Resource Centers shall be determined by the appropriate regional warden.

15. If the situation or conditions dictate, a centralized supply location or warehouse may be established to support inmate work crews.

16. Inmates participating in the Community Resource Centers program shall be eligible to earn 30 days of good time credit in addition to that otherwise authorized by law for every 30 days of service in this program. Therefore, each unit shall maintain records of the inmates assigned to the work crews and the number of days worked. These records shall be forwarded to the records office at the facility to determine the amount of good time to be awarded to the inmate.

AUTHORITY NOTE: Promulgated by the Department of Public Safety and Corrections in accordance with R.S. 15:833.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

#### **Family Impact Statement**

In accordance with the Administrative Procedure Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement.

Promulgation of LAC 22:I:340 by the Department of Public Safety and Corrections, Corrections Services, will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed Rule.

Written comments may be addressed to Melinda L. Long, Attorney for the Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804, until 4:30 p.m. on February 10, 2007.

Richard L. Stalder  
Secretary

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

### **RULE TITLE: Community Resource Centers**

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

Although costs or savings to state or local governmental units to staff and operate Community Resource Centers cannot be accurately estimated due to unknown frequency and circumstances of future natural disasters, the proposed rule is not anticipated to result in additional expenditures or costs at this time. Implementation of the rule is contingent upon appropriation by the legislature or the availability of any appropriate federal funds, which at this time has not occurred. The proposed rule will merely establish procedures in the event of a future natural disaster. If eventually implemented, there would be additional expenditures to the Department of Public Safety and Corrections for staff, fuel, transporting inmates, food, medical supplies, and other necessary miscellaneous expenditures. There would be a cost savings estimated at \$22.39 per offender per day for housing, assuming the impact would occur at the local level due to the offender earning an additional 30 days of good time for every 30 days of service in the program.

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

There is no anticipated direct material effect on governmental revenues as a result of this measure.

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

No additional costs to affected persons or non-governmental groups are anticipated as a result of this measure. Residents, businesses, and other responders may benefit from the additional assistance that the Community Resource Centers can provide during such emergencies. Such benefits to be derived from the operation of these centers cannot be accurately quantified.

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

No negative effect on competition and employment is anticipated as a result of this measure. The use of inmate labor will augment governmental personnel, private sector firms and community volunteers conducting remediation activities during the period immediately after such a disaster. Inmate labor will not replace existing employees, be utilized on a project or job involved in a labor dispute, or supplant post disaster remediation activities that would otherwise be performed under contract by private sector firms employed by an affected individual or governmental entity. To the extent that these centers can expedite remediation or other support activities, individuals, and businesses may recover and redevelop more quickly.

B.E. "Trey" Boudreaux, III  
Undersecretary  
0701#017

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Corrections Services**

Fees  
(LAC 46:LVII.517)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Department of Public Safety and Corrections, Board of Private Examiners, hereby gives notice of its intent to amend LAC 46:LVII.517, Fees.

In particular, the Department of Public Safety and Corrections hereby gives notice of its intent to amend the Board of Private Examiners current fees assessed, in addition to fees provided by R.S. 37:3516.

**Title 46**

**PROFFESIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LVII. Private Investigator Examiners**

**Chapter 5. Application, Licensing, Training,  
Registration and Fees**

**§517. Fees**

A. In addition to the fees provided by R.S. 37:3516, the following schedule of fees shall be assessed:

- 1. for licensee or any business entity employing more than one investigator:
  - a. - c. ...
  - d. transfer of agent \$ 50;
- 2. for private investigator employed by a company or corporation, or apprentice investigator:
  - a. - d. ...
  - e. transfer of agency \$ 50;
- 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator examiners, LR 19:1335 (October 1993), amended LR 33:

**Family Impact Statement**

In accordance with the Administrative Procedure Act, R.S. 49:953(A) (1) (a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Board of Private Examiners, hereby provides the Family Impact Statement.

Amendment of the current LAC 46:LVII.517, Fees, by the Department of Public Safety and Corrections, Board of Private Examiners, will have no effect on the stability of the family, on the authority and right of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings, and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the in the proposed Rule amendment

Interested parties may submit written comments until 5 p.m., February 9, 2007, to Jonathan Holloway, Sr., General Counsel for Board of Private Investigators, P.O. Box 80777, Baton Rouge, LA 70898.

Douglas J. Chauvin  
Chairman

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

**RULE TITLE: Fees**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There are no estimated costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed rule change will result in an anticipated increase of revenue to the Louisiana State Board of Private Investigators in the amount of \$2,700 in FY07. This estimate is based upon a total of 108 assessments which are anticipated for FY07 at the rate of \$50 per assessment which double the previous fee. This increase should remain relatively constant in subsequent fiscal years.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The proposed rule will result in an increase in the transfer fee from \$25 to \$50 to directly affected persons.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no estimated effect on competition and employment.

Jonathan Holloway  
General Counsel  
0701#078

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Corrections Services**

Residential Referral (LAC 22:I.Chapter 13)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and R.S. 40:2851 and 2852, the Louisiana Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to promulgate the contents of Chapter 13, Judicial Agency Referral Residential Facilities.

The purpose of the promulgation of the aforementioned regulation is to establish the secretary's rules relative to the housing or temporary residence of individuals who have been arrested for the commission of a crime and are referred by any judicial agency to an approved residential facility and to provide for the construction, standards of operation and services provided by such residential facilities.

**Title 22**

**CORRECTIONS**

**Chapter 13. Residential Referral**

**§1301. Judicial Agency Referral Residential Facilities**

A. Purpose. To establish the secretary's rules relative to the housing or temporary residence of individuals who have been arrested for the commission of a crime and are referred by any judicial agency to an approved residential facility and to provide for the construction, standards of operation and services provided by such residential facilities.

B. Applicability. Chief of operations, undersecretary, assistant secretary and administrators of housing or temporary residential facilities.

C. Policy. No facility not otherwise required to be licensed by Department of Health and Hospitals or Department of Social Services shall provide housing or temporary residence to any individual referred by a judicial agency and no judicial agency shall refer any individual to a facility providing housing or temporary residence until the facility complies with rules as outlined in this regulation.

D. Procedure

1. The facility shall comply with all building codes, local zoning requirements and ordinances with regard to permits and licenses.

2. The State Fire Marshal and State Health Officer will determine rated bed capacity and approval for occupancy.

3. The facility shall comply with the Judicial Agency Referral Residential Facility Standard Operating Procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

**§1303. Administration**

A. The facility shall have a written document describing the facility's organization. The document shall include an organization chart that groups similar functions, services, and activities.

B. Regular meetings between the facility administrator, or designee and all department heads shall be held and there is formal documentation that such meetings are conducted at least monthly.

C. Written policy, procedure and practice shall provide for an independent financial audit of the facility at least annually or as stipulated by statute.

D. Each facility shall have comprehensive facility insurance coverage.

E. Residents' personal funds held by the facility are controlled by accounting procedures and in accordance with §1321, Residents' Personal Funds.

F. Staffing requirements for the facility shall ensure there is 24-hour monitoring and coordinating of the facility's life safety and communications systems.

G. Standard of Conduct for Employees of Residential Programs

1. Employees are expected to conduct themselves in a manner that will not bring discredit upon their facility.

2. Each employee is to be furnished with written notice of facility rules, policies and procedures.

3. The facility will provide at least one staff person on duty 24 hours a day to control the movement and location, at all times, of all residents assigned to the facility.

4. There shall be a method of staff identification so that they can be readily identified by visitors through utilization of name tags, identification cards, etc.

5. There should be written job descriptions and job qualifications for all positions in the facility. Qualifications should reflect the level of responsibility of the position.

6. All full-time employees must receive initial orientation training during the first week of employment and must participate in training and educational activities on an annual basis.

H. A training program shall be in place which will include orientation for all new employees (appropriate to their job) prior to assuming a position. Such training shall include:

1. fire and emergency procedures;

2. suicide prevention;

3. CPR and first aid;

4. resident rules and regulations.

I. Case records shall be maintained for each resident housed at the facility.

J. Written records or logs shall be maintained at the facility which continuously documents the following information:

1. personnel on duty;

2. resident population;

3. admission and release of residents;

4. shift activities;

5. entry/exit of all visitors including legal/medical;

6. unusual occurrences (including but not limited to major and minor disturbances, fires, escapes, deaths, serious illness or injury and assaults or other acts of violence).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

**§1305. Physical Plant**

A. The facility shall comply with the requirements of the State Fire Marshal and shall have a specific plan for addressing deficiencies, if any, that is approved by the State Fire Marshal. The State Fire Marshal shall approve any variances, exception or equivalencies.

B. The facility shall comply with the requirement of the State Health Officer and shall have a specific plan for addressing deficiencies, if any, that is approved by the State Health Officer.

C. The number of residents present at the facility shall not exceed the rated bed capacity as determined by the State Fire Marshal and State Health Officer. The State Fire Marshal will determine a capacity based upon exiting capabilities. The State Health Officer will determine a capacity based upon the ratio of plumbing fixtures to residents and square footage. The rated capacity will be the lower of these two figures.

D. Residents shall have access to toilets and hand washing facilities 24 hours per day and shall have access to operable showers on a reasonable schedule, (a minimum of three times per week).

E. The facility shall have sanitary areas for the storage of all foods that comply with applicable state and/or federal guidelines.

F. Toilet and hand basin facilities are available to food service personnel in the food preparation area.

G. The facility shall have exits that are properly positioned, clear, and distinctly and permanently marked to ensure the timely evacuation of residents and staff in the event of fire or other emergency.

H. The facility shall comply with all building codes, local zoning requirements and ordinances with regard to permits and licenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

**§1307. Facility Operations**

A. The facility shall have a system for physically counting residents that includes strict accountability for residents assigned to the program.

B. A current master list shall be maintained at all times of all residents assigned to the facility. This list is to be updated immediately whenever the facility receives, releases, or removes a resident from the facility.

C. There are several forms of control that must be considered around the facility. Physical control of the residents assures that all are accounted for at all times. When a count is conducted and it is found that a resident who is not physically present in the facility has not signed out on the log in accordance with the appropriate procedure or has signed out but has failed to return to the facility on time in accordance with appropriate procedures, the facility shall take immediate action to locate the resident. If the resident cannot be located a report must be filed by the next working day with the referring authority.

D. When a resident leaves the facility for any reason, he shall sign out in the facility log book. Each entry shall include: resident's name; destination; phone number at destination; address of destination; time out; anticipated time of return; actual time of return; and the initials of the appropriate staff member charged with monitoring the log book.

E. Facility staff shall ensure that resident work schedules are verified prior to the resident signing out for work.

F. Alcohol/drug testing shall be conducted both randomly and for probable cause. Costs associated with testing shall be the responsibility of the facility. However, restitution in the amount of the actual cost of the drug testing may be obtained from the resident when the test results are positive.

G. The facility itself shall remain staffed 24 hours a day in such a manner that no person can enter or exit the facility without the knowledge of the on duty staff.

H. There are written procedures for facility emergencies. Such procedures shall include the reporting of these incidents to local law enforcement or the appropriate authorities.

I. The facility shall have disciplinary rules and procedures available to the resident population.

J. Program access and administrative decisions shall be made without regard to resident's race, religion, national origin, or sex. The facility shall have written policy, procedure, and practice to protect residents from personal abuse, corporal punishment, personal injury, disease, property damage, and harassment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

### **§1309. Facility Services**

A. Written policy, procedure, and practice shall require that food service staff plan menus and substantially follow the plan. The planning and preparation of all meals should take into consideration nutritional characteristics and caloric adequacy. The facility shall provide a tray/plate and utensil(s) for each hot meal. Records shall be maintained for all meals served. Three meals shall be provided at regular meal times during each 24-hour period for residents present in the facility at such meal time. Variations may be allowed based on weekend and holiday food service demands provided basic nutritional goals are met. Residents shall be provided an ample opportunity to eat.

B. The denial of food as a disciplinary measure is prohibited. Special diets as prescribed by appropriate medical or dental personnel shall be provided.

C. The facility shall have a written housekeeping plan that provides for the ongoing cleanliness and sanitation of the facility in addition to a plan for the control of vermin and pests.

D. The facility has an obligation to insure that the resident has adequate clothing appropriate to the season and the resident's work status, including adequate changes of clothing to allow for regular laundering.

E. The facility shall provide adequate bedding and linens. Residents shall have reasonable access to personal hygiene articles including soap, towels, toothbrush, toothpaste, toilet paper, shaving gear, and feminine hygiene articles.

F. The facility shall have written policy, procedure, and practice for the delivery of health care services, including medical, dental and mental health services under the control of a designated health care authority who may be a physician or a licensed or registered health care provider or health agency. Access to these services should be unimpeded in the sense that non-medical staff should not approve or disapprove residents for services in accordance with the facility's health care plan.

G. Anyone providing health care services to residents shall be licensed, registered, or certified as appropriate to their respective professional disciplines. Such personnel may only practice as authorized by their license, registration, or certification. Standing orders may be used in the treatment of residents only when authorized in writing by a physician or dentist. (Standing orders are used in the treatment of identified conditions and for the on-site emergency treatment of a resident.)

H. Personnel who do not have health care licenses may only provide limited health care services as authorized by the designated health care authority and in accordance with appropriate training. This would typically involve the administration of medication, the following of standing orders as authorized by the designated health care authority and the administration of first aid/CPR.

I. The facility shall provide 24-hour emergency medical services. This requirement may be met by agreement with a local hospital, on-call qualified health care personnel, or on-duty qualified health care personnel. Decisions regarding access to emergency medical services shall not be the sole province of non-health personnel except as noted above.

J. All residents entering the program shall receive a health screening. The purpose of the health screening is to protect newly admitting residents who pose a health safety threat to themselves or others from not receiving adequate medical attention. This should include inquiry into:

1. current medical, dental, or mental health treatment;
2. current medications;
3. current medical, dental, or mental health complaints

and documentation of appearance and behavior, and current physical traumas or characteristics.

K. The facility shall have a method in place for the proper management of pharmaceuticals. Residents are provided medication as prescribed.

L. First aid kits shall be available in areas of the facility as designated by the health care authority and should be immediately accessible to housing units.

M. Sick call shall be conducted, at least weekly, by a physician and/or other qualified health care personnel who are licensed, registered, or certified as appropriate to their respective professional disciplinary and who practice only as authorized by their license, registration, or certification.

N. There is a written suicide prevention and intervention program that is approved by a mental health professional who meets the educational and license/certification criteria specified by his/her respective professional discipline. All staff with responsibility for resident supervision are trained in the implementation of the program.

O. Written policy, procedure, and practice shall specify and govern the actions to be taken in the event of a resident's death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

### **§1311. Resident Programs**

A. Educational programming shall be available from acceptable internal or external sources which should include, at a minimum, assistance in obtaining individualized program instruction at a variety of levels.

B. Written policy, procedure, and practice shall govern resident correspondence. Such policy should include provisions for inspection of mail for contraband or deterrence of material that interferes with legitimate facility objectives.

C. Written policy, procedure, and practice govern resident access to publications and packages from outside sources.

D. Written policy, procedure, and practice govern visiting. The number of visitors a resident may receive and the length of the visits may be limited only by the facility's schedule, space, and personnel constraints or when the facility administrator can present clear and convincing evidence that such visitation jeopardizes the safety and security of the facility.

E. Reading materials shall be available to residents on a reasonable basis.

F. Residents shall have reasonable opportunity for religious practice.

G. Exercise opportunities shall be available to residents adequate to ensure major muscle activity and outdoor exercise should be available on a regular basis.

H. Basic substance abuse education shall be provided to residents identified with alcohol and drug abuse problems.

I. There shall be no charge to residents for programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

### **§1313. Employment**

A. There need be no general restriction on the types of jobs for which a resident may be considered. Each job offer will be investigated to determine if it is bona fide and consistent with program policies. The expectation is that the job selected will be that which best fulfills the purpose of the program. Good employment placement shall give preference to jobs that are related to prior training and are suitable for

continued employment. All employment plans must be consistent with state statutes. Concern for public safety shall guide employment decisions at all times. No resident is to work for or on the premises of a school, day care facility, or other business or agency whose primary objective is in the service of juveniles, or who provide housing, care and/or treatment of juveniles.

B. Every reasonable effort will be made by the facility to provide residents with the highest paying job possible. Within reason, convenience of job location, as it pertains to the facility providing transportation, should not be a deciding factor as to where residents are employed.

C. Residents will be assisted by facility staff in obtaining gainful employment. The facility will be responsible for maintaining liaison with sources of information on available jobs and with potential employers, and will provide transportation for job interviews.

D. All employers must sign the "Employer's Work Agreement Form" (Attachment #1) which indicates the terms and rules of the resident's employment, prior to the resident reporting to work for the employer. The facility must explain the requirements contained in the "Employers Work Agreement Form" to all approved employers. A copy of the signed form will be kept on file for the duration of the resident's stay at the facility. The employer agrees to report any attendance irregularities to the facility immediately and record same.

E. The employer must agree to provide a work situation where he or his designee, preferably a supervisor, will be present with the resident or at the work site at all times. Employment that does not provide for proper supervision of the resident and/or is deemed unsuitable by the facility director may be terminated.

F. The employer's responsibility to provide proper supervision for the resident extends from the time the employer receives the resident from facility personnel, either by picking him up at the facility or by having facility personnel transport the resident to the employer, and terminates when he returns the resident back to the facility personnel, either at the facility or to facility provided transportation. The ideal situation is for no resident to be unsupervised during the transportation process to or from an employment location. However, there may be a reasonable time (defined as less than an hour) allowed before work (when a resident is dropped off) and after work (when the resident is picked up) that he may be unsupervised.

G. Should the occasion arise and a resident is not picked up in a reasonable period of time, it must be noted on the transportation log with the reason why.

H. The facility is required to keep a list, which is updated weekly, of every employer who provides work for residents assigned to that facility. This list shall include but not be limited to the name and address of the employer, a brief description of the nature of the business, relevant telephone number(s), and whether or not work is performed at a stationary location or if the resident will be required to move during the course of the day.

I. If the resident's estimated time of return changes for any reason, this change must be verified by facility staff with the employer and noted in the daily log.

J. As previously mentioned, there are no general restrictions on the types of jobs residents may be considered

for except those relative to juveniles; however, common sense and logic must prevail. At all times, concern for public safety shall guide the decision. Residents should not be employed in a bar, lounge or tavern as a bartender, waiter or clean-up person. Employment in a hotel, motel or restaurant where a lounge is a part of the establishment may be acceptable if the employment is checked out by the facility and is determined to be appropriate.

K. No resident should be employed in a position which would necessitate his/her departure from the state of Louisiana.

L. Employer's Work Agreement Form

**Employer's Work Agreement Form**

RESIDENT'S NAME: \_\_\_\_\_  
JOB TITLE: \_\_\_\_\_  
WAGES: Rate \_\_\_\_ per \_\_\_\_ PAY PERIOD \_\_\_\_\_  
OVERTIME: \_\_\_\_\_ per \_\_\_\_\_  
WORK HOURS: \_\_\_\_\_ WORK DAYS: \_\_\_\_\_  
EFFECTIVE DATE OF EMPLOYMENT: \_\_\_\_\_

I understand and agree to the following:

- (1). Any resident in my employment will be covered by my insurance, and/or workmen's compensation insurance as required by law.
- (2). The resident may be withdrawn from employment in the event of a strike.
- (3). The consumption of alcohol beverages or illegal drugs by the resident is prohibited. If the employer has knowledge or suspicion that the resident is using either of these substances, the facility administrator will be notified immediately.
- (4). The resident must report immediately to and return directly from work each day. The employer will immediately report any known violations to the facility administrator.
- (5). Staff from the residential facility may visit the resident= work site at any time.
- (6). The employer agrees to provide a work situation where he or his designee, preferably a supervisor, will be present with the resident or at the work site at all times.

The wages of the resident shall be made out to the resident on a standard payroll check. No other wages or cash should be given to the resident directly. The payroll check shall be accompanied by a statement which includes the resident's name, deductions made, the pay period and the computation of gross wages.

NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_  
COMPANY or ORGANIZATION: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ PHONE: \_\_\_\_\_

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

**§1315. Community Involvement**

A. Community involvement and volunteers can be an important contribution to any program by providing a number of services to residents, as well as serving as a link between the facility and the community. Policies and procedures regarding citizen involvement shall be developed and volunteers should be subject to approval by the facility administrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

**§1317. Resident Activities**

A. Daily Log. A daily log shall be maintained which will indicate when residents report to and leave work, and will

list events, messages, telephone calls, incidents, etc. This daily log will begin at 12 midnight and cover a 24 hour period. All resident work schedules shall be verified by facility staff prior to the inmate being logged out for work.

B. Resident Log

1. A daily resident log shall be maintained which will indicate when residents leave and return to the facility for any reason. The resident will sign out in the facility log book. Each entry will include: residents' name; destination; phone number at destination; address at destination; time out; anticipated time of return; actual time of return; and the resident's signature upon return. The employee on duty will initial each entry when the resident leaves the facility and when he returns. A clock with the correct time will be visible to both the resident and the employee and will serve as the official timepiece. This daily resident log will begin at 12 midnight and cover a 24 hour period. Resident logs will be kept on file for at least three years.

2. Random pat searches will be conducted in such a manner so as to discourage the introduction of contraband into the facility. Random pat searches and alcohol breath tests will be administered by a staff member to the resident population each day as they return to the facility. All searches and breath tests will be entered on the daily log.

C. Transportation Log. A daily transportation log will be kept on the activities of each transportation vehicle. This log will indicate who is driving the vehicle, when a resident enters the vehicle, when and where he is dropped off, when a resident is picked up, and from where, and when he is returned to the facility. This daily transportation log will begin at 12 midnight and cover a 24 hour period. Daily transportation logs will be kept on file for at least three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

**§1319. Resident Discipline**

A. Residents assigned to a residential program shall comply with all rules and procedures set forth by the facility. Each resident shall receive a copy of the facility handbook, all other rules and regulations of the program of that facility, including disciplinary procedures available to the staff, which the resident is required to read. The resident shall sign and date a statement acknowledging this, which is placed in his file.

B. All of the above shall be provided to the resident prior to his voluntary entry into the program.

C. The facility is responsible for ensuring that disciplinary reports are completed accurately and staff completing reports should receive training on report writing. A supervisor should review disciplinary reports prior to submission making certain essential elements (who, what, when, where, etc.) are covered with clarity. It is essential that reports be accurate as residents are subject to removal from the facility program for serious violations.

D. Restriction of Privileges. When residents are found guilty of a rule violation and are assessed penalties which restrict their privileges, the privileges which are restricted and the amount of time imposed should be posted in a conspicuous place so that all staff members are aware of the restrictions. Under no circumstances will privileges be restricted without a proper disciplinary report, a due process

hearing, and a finding of guilty. The denial of food will not be used as a disciplinary measure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

#### **§1321. Resident Personal Funds**

A. In keeping with the goals and objectives of the residential program, the facility should ensure as much of the resident's earned net wages as possible are maintained and available to the resident immediately upon release.

B. Funds held on behalf of the resident must be properly accounted for. The collection and disbursement of the resident's wages as well as the methods used for the receipt, safeguarding, disbursement and recording of funds must comply with generally accepted accounting principles. The legislative auditor of the state of Louisiana and/or the Office of the Governor, Division of Administration auditors shall have the option of auditing all accounts of the facility.

C. A ledger will be maintained reflecting the financial status of each inmate in the facility, and there will be adequate documentation to support the receipt/expenditure of inmate funds.

##### **D. Internal Control**

1. Certificates of bonding documenting coverage of staff handling resident's funds shall be available on site at the facility.

2. The facility will process all personal funds received on behalf of the resident, issue pre-numbered receipts for funds and post receipts to a ledger indicating receipt number. Funds received will be deposited daily (within 24 hours with the exception of weekends and holidays) in a public banking institution in an account designated "Resident Funds" and credits posted to the resident ledger.

3. All withdrawals or expenditures by a resident will be documented by a withdrawal request form, signed and dated by the resident. The withdrawal/expenditure is to be posted to the resident ledger with an adequate description relating to the transaction.

4. A statement of account balance will be given to the residents monthly.

5. The residents' account will be reconciled monthly. Upon receipt of the monthly bank statement, the facility prepares reconciliation to the resident ledger by:

a. adding all deposits and deducting all withdrawals to each individual ledger to determine each resident's current balance;

b. total current month's balances for all residents' ledgers including balances carried forward from previous months which have had no transactions in the current month;

c. compare this total to the reconciled bank balance;

d. investigate and resolve any discrepancies between the bank and the resident ledger.

E. Deductions. Deductions for room and board costs resulting from participation in a facility program will not exceed 50 percent of the net wages received for the week actually worked by a resident, or \$22 a day, whichever is less. Residents who work 40 hours or more weekly or earn net weekly wages in excess of \$308 are considered to be employed full time and the facility may deduct \$154 weekly for room and board or one-half of the net wages, whichever is less. Residents who work less than 40 hours and earn less than \$308 weekly are considered to be employed part time

and the facility may deduct for room and board \$22 per day for days actually worked or one-half of the resident's net wages, whichever is less.

1. All wages earned must go through the Resident Account Fund and be reflected on the ledger denoting the pay period.

2. Deductions for room and board fees will be based on days/hours worked as noted on the payroll check provided by the employer, not estimated figures. Documentation should be maintained in each residents' file.

##### **F. Other Deductions Allowed**

1. Transportation and Incidental Expenses. The facility may charge resident(s) \$4.50 each day the facility transports the resident for work purposes. A resident(s) employed offshore whom the contractor transports may charge the resident(s) a flat rate of \$50 monthly for transportation.

2. Allowance. The facility will develop procedures to determine the weekly allowance needed for incidental personal expenses in accordance with provisions in this Chapter. Residents(s) may be allotted up to \$30 weekly for living allowance.

3. Support of the Resident's Dependents. The resident and facility will mutually agree upon the amount to be sent to dependents. This agreement and authorization should be in writing. If there is a legal judgment of support, that judgment will suffice as written authorization to disburse the money.

4. Payment of the Resident's Obligations. Debts acknowledged by the resident shall be in writing, or reduced to judgment (including victim restitution), and should reflect the schedule by which the resident wishes the debt to be repaid. The facility will ensure that payment of this type debt is legitimate.

5. Canteen items should be priced at a reasonable cost to residents. Contractors that operate a canteen will provide to the facility administrator a list of canteen items sold and the price list of the cost of the item to the resident.

##### **G. Items the Contractor Will Provide to Resident**

1. The resident will not be required to pay for services and supplies which are to be provided by the facility, such as but not limited to linens, laundry, drug screens, locks/lockers, duffle or laundry bags, identification cards, lunch boxes, phone charges to locate employment. Additionally, upon arrival and until gainfully employed personal hygiene items, i.e., toothpaste, toothbrush, deodorant, razor, shaving cream, etc., will be provided to the inmate at no cost. Sanitary napkins for female residents must be provided at no cost upon request. Toilet paper and soap are to be provided to the resident for the duration of their stay without cost to the resident.

2. Basic laundry service will include free access to an adequate number of washers and dryers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

#### **Family Impact Statement**

Promulgation of the LAC 22:I.Chapter 13 by the Department of Public Safety and Corrections, Corrections Services, will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the

family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed rule promulgation.

Interested persons may submit their comments in writing to Melinda L. Long, Attorney for Secretary Richard L. Stalder, LA Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804, until 4:30 p.m. on February 1, 2007.

Richard L. Stalder  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Residential Referral**

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

There is an indeterminable amount of estimated savings to state government, i.e., the Department of Public Safety and Corrections. For each offender that is referred to the residential facility (the "Academy") in lieu of incarceration, the Department would save \$22.39/day, assuming the offender would have been housed at the local level. Per offender, this is a savings of \$8,172.35/year. There is also indeterminable cost savings to the Department, if an offender was referred to the residential facility in lieu of being placed on probation/parole. However, a savings of \$2.12 a day/per offender is possible (or \$807.00/year/per offender).

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

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

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

There is an indeterminable amount of estimated benefits to a non-governmental group, i.e., private sector business ("the Academy") that will be housing state offenders in lieu of incarceration in a local jail. This housing will be a judicially mandated option to incarceration for individuals who have been arrested for the commission of a crime. The cost estimated with this housing is \$43/day per resident. The Academy has the capacity to house 192 residents. There will also be benefits for vendors who supply services for the Academy.

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

There is an indeterminable positive estimated impact on competition and employment in the private sector due to the contractor ("the Academy") hiring 28 "full time" staffers and 4 "part time" staffers. Staff salaries are estimated to be \$713,800 per year. In addition, residents of the facility will be provided a full time job furnished by the Academy administration. The Academy will also provide (to be paid for by resident) vocational tech education and professional alcohol and drug counseling. The Academy residents are anticipated to have a profound effect in the workforce arena of unskilled to skilled labor. The residents being trained and employed will greatly reduce unemployment and help remove families from being on state and federal welfare rolls. The Academy residents are anticipated to compete with and against foreign laborers, legal and illegal, who are presently working throughout Louisiana. The Academy residents will increase the number of U.S. citizens that are being employed and trained. Furthermore, it will reduce the number of non-violent citizens that serve time in correctional facilities and as a result, save the state and its

citizens \$8,172.5 per inmate/per year. The economic impact to Jefferson Davis Parish (physical location of the Academy) and its surrounding area could exceed 2 million dollars yearly without any cost to the state or federal government.

B.E. "Trey" Boudreaux III  
Undersecretary  
0701#071

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of State Police**

**Reporting Requirements for Category 3 or Higher Hurricane  
(LAC 33:V.11101, 11103, and 11105)**

Editor's Note: This Notice of Intent is being republished to correct an error upon submission. The original proposal can be viewed on pages 2478-2480 of the December 20, 2006 edition of the *Louisiana Register*.

Under the authority of R.S. 32:1504, 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 regulations for reporting requirements of hazardous materials for Category 3 or higher hurricane in LAC 33:V.Subpart 2, 11101, 11103, and 11105 (Log #DPS001).

This proposed Rule provides a process for the reporting of information regarding hazardous materials that are in transit and/or temporarily stored at a facility and that could present a threat to human health and the environment if compromised during a Category 3 or higher hurricane. Hurricanes Katrina and Rita illustrated the need to be able to accurately account for all hazardous material in this state especially in times of emergency. The state must be aware of the exact nature, quantities, and location of all hazardous materials in this state prior to any potential release under these circumstances. This proposed Rule is being promulgated by the Department of Public Safety in collaboration with the Department of Environmental Quality. The basis and rationale for this Rule are to protect public health and the environment during times of emergency. 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 2. Department of Public Safety and  
Corrections—Hazardous Materials**

**Chapter 111. Reporting Requirements for Category 3  
or Higher Hurricane**

**§11101. Purpose**

A. The purpose of this Chapter is to establish procedures for the reporting of information regarding hazardous materials that are in transit and/or temporarily stored at a facility and that could present a threat to human health and the environment if compromised during a Category 3 or higher hurricane.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:1504.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 33:

### §11103. Applicability

A. This Chapter applies to all persons who are engaged in the transportation of hazardous materials by railcars, vessels, or barges, or the temporary storage of hazardous materials in any storage vessel not permanently attached to the ground, that is within the confines of a parish affected, or projected to be affected, by a Category 3 or higher hurricane.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:1504.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 33:

### §11105. Requirements for Reporting

A. Notification shall be given to the DPS, via electronic submittal, to the 24-hour Louisiana Emergency Hazardous Materials Hotline email address at [emergency@la.gov](mailto:emergency@la.gov) within 12 hours of a mandatory evacuation order issued by the proper parish authorities.

#### B. Definitions

*Hazardous Materials*—those materials listed on the EHS list, 40 CFR Part 355, Appendix A.

*Temporary Storage*—the containment of hazardous materials in a container that is portable. This provision does not cover those hazardous materials that are stored in pipelines or any other storage vessel permanently attached to the ground.

#### C. Mechanism and Responsibilities

1. Within 12 hours of an order of evacuation issued by local parish authorities, persons subject to the provisions of this Chapter shall report the following:

a. the exact nature of, and the type, location, and relative fullness of the container (i.e., full, half-full, or empty) of all hazardous materials that are located within a parish subject to the evacuation order;

b. the primary and secondary contact person's phone, e-mail, and fax number; and

c. whether the facility will be sufficiently manned such that post-event assessments will be performed by company personnel (as soon as safely practicable) and that any releases and/or hazardous situations will be reported in accordance with existing Louisiana Department of Environmental Quality (LDEQ) and State Police reporting requirements.

2. For those materials that are stored, it shall be necessary to only report those hazardous materials that were not reported in the annual Superfund Amendments and Reauthorization Act (SARA) inventory report and those that are in excess of what is typically stored at the facility.

3. Within a reasonable period of time, persons subject to the provisions of this Chapter shall perform a post-event assessment of those hazardous materials that were actually present in the affected area and to what degree, if any, those materials were compromised by said event and their current condition.

4. Both the DPS and Louisiana Department of Environmental Quality (LDEQ) shall have access to this information.

D. This Chapter does not extinguish any obligation or supersede any other federal or state law requiring reporting of information on hazardous materials.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:1504.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 33:

A public hearing will be held on February 27, 2007, 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 regulation. 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 DPS001. Such comments must be received no later than March 6, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Department of Environmental Quality, 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](mailto:judith.schuerman@la.gov). Copies of this proposed regulation can be purchased by contacting the Department of Environmental Quality, Public Records Center, at (225) 219-3168. Check or money order is required in advance for each copy of DPS001. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://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.

Jill P. Boudreaux  
Acting Undersecretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Reporting Requirements for Category 3 or Higher Hurricane

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

There will be no cost or savings to the state to implement this rule. Some additional paperwork may occur during the period of time for which the additional reporting is required.

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

The proposed rule will have no impact on revenue collections of the state or local governmental units.

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

Some additional paperwork may occur during the period of time for which the additional reporting is required for groups engaged in the transportation of hazardous materials or the temporary storage of hazardous materials in any storage vessel not permanently attached to the ground, that is within the confines of a parish affected, or projected to be affected, by a Category 3 or higher hurricane.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition or employment as a result of the proposed rule.

Jill P. Boudreaux  
Acting Undersecretary  
0701#089

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of the State Fire Marshal**

Code Standards (LAC 55:V.103 and 303)

In accordance with the provisions of R.S. 40:1563 relative to the authority of the Office of State Fire Marshal to promulgate and enforce rules, the Office of State Fire Marshal hereby proposes to amend the following Sections regarding adopted code standards, review of plans and building inspections.

**Title 55  
PUBLIC SAFETY  
Part V. Fire Protection**

**Chapter 1. Preliminary Provisions  
§103. General Provisions**

A. It shall be the policy of the State Fire Marshal that in all instances or specifications provided in the statutes or in the codes referenced by the statutes, or by any specific references in administrative rulings by the State Fire Marshal, that the *Standard Building Code* published by the Southern Building Code Congress International, and the *International Building Code* published by the International Code Council, and the National Fire Codes published by the National Fire Protection Association as specifically identified in the following list, shall be used as the resource materials for determinations by the State Fire Marshal.

NFPA 18	2006 Edition	Standard on Wetting Agents
NFPA 20	2007 Edition	Standard for the Installation of Stationary Pumps for Fire Protection
NFPA 22	2003 Edition	Standard for Water Tanks for Private Fire Protection
NFPA 25	2002 Edition	Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems
NFPA 30	2003 Edition	Flammable and Combustible Liquids Code
NFPA 30A	2003 Edition	Code for Motor Fuel Dispensing Facilities and Repair Garages
NFPA 30B	2002 Edition	Code for the Manufacture and Storage of Aerosol Products
NFPA 31	2001 Edition	Standard for the Installation of Oil-Burning Equipment
NFPA 32	2004 Edition	Standard for Drycleaning Plants
NFPA 33	2007 Edition	Standard for Spray Application Using Flammable or Combustible Materials
NFPA 34	2007 Edition	Standard for Dipping and Coating Processes Using Flammable or Combustible Liquids
NFPA 37	2002 Edition	Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines
NFPA 42	2002 Edition	Code for the Storage of Pyroxylin Plastic
NFPA 45	2004 Edition	Standard on Fire Protection for Laboratories Using Chemicals
NFPA 51	2002 Edition	Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes
NFPA 51B	2003 Edition	Standard for Fire Prevention During Welding, Cutting, and Other Hot Work
NFPA 52	2006 Edition	Compressed Natural Gas (CNG) Vehicular Fuel Systems Code
NFPA 53	2004 Edition	Recommended Practice on Materials, Equipment, and Systems Used in Oxygen-Enriched Atmospheres
NFPA 54	2006 Edition	ANSI Z223.1-2002 National Fuel Gas Code
NFPA 55	2005 Edition	Standard for the Storage, Use, and Handling of Compressed Gases and Cryogenic Fluids in Portable and Stationary Containers, Cylinders, and Tanks
NFPA 58	2004 Edition	Liquefied Petroleum Gas Code
NFPA 59A	2006 Edition	Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)
NFPA 61	2002 Edition	Standard for the Prevention of Fires and Dust Explosions in Agricultural and Food Processing Facilities
NFPA 68	2002 Edition	Guide for Venting of Deflagrations
NFPA 69	2002 Edition	Standard on Explosion Prevention Systems
NFPA 70	2005 Edition	National Electrical Code
NFPA 72	2002 Edition	National Fire Alarm Code
NFPA 80	1999 Edition	Standard for Fire Doors and Fire Windows
NFPA 82	2004 Edition	Standard on Incinerators and Waste and Linen Handling Systems and Equipment
NFPA 88A	2002 Edition	Standard for Parking Structures
NFPA 90A	2002 Edition	Standard for the Installation of Air-Conditioning and Ventilating Systems
NFPA 90B	2006 Edition	Standard for the Installation of Warm Air Heating and Air-Conditioning Systems
NFPA 92A	2006 Edition	Recommended Practice for Smoke-Control Systems
NFPA 92B	2005 Edition	Guide for Smoke Management Systems in Malls, Atria, and Large Areas

NFPA 1	2006 Edition	Uniform Fire Code
NFPA 10	2002 Edition	Standard for Portable Fire Extinguishers
NFPA 11	2005 Edition	Standard for Low-, Medium-, and High-Expansion Foam
NFPA 12	2005 Edition	Standard on Carbon Dioxide Extinguishing Systems
NFPA 12A	2004 Edition	Standard on Halon 1301 Fire Extinguishing Systems
NFPA 13	2007 Edition	Standard for the Installation of Sprinkler System
NFPA 13D	2007 Edition	Standard for the Installation of Sprinkler Systems in On- and Two-Family Dwellings and Manufactured Homes
NFPA 13R	2007 Edition	Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height
NFPA 14	2007 Edition	Standard for the Installation of Standpipe and Hose Systems
NFPA 15	2007 Edition	Standard for Water Spray Fixed Systems for Fire Protection
NFPA 16	2003 Edition	Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems
NFPA 17	2002 Edition	Standard for Dry Chemical Extinguishing Systems
NFPA 17A	2002 Edition	Standard for Wet Chemical Extinguishing Systems

NFPA 96	2004 Edition	Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations
NFPA 99	2005 Edition	Standard for Health Care Facilities
NFPA 99B	2005 Edition	Standard for Hypobaric Facilities
NFPA 101	2006 Edition	Life Safety Code
NFPA 101A	2004 Edition	Guide on Alternative Approaches to Life Safety
NFPA 102	1995 Edition	Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures
NFPA 105	2003 Edition	Standard for the Installation of Smoke Door Assemblies
NFPA 110	2005 Edition	Standard for Emergency and Standby Power Systems
NFPA 111	2005 Edition	Standard on Stored Electrical Energy Emergency and Standby Power Systems
NFPA 140	2004 Edition	Standard on Motion Picture and Television Production Studio Soundstages and Approved Production Facilities
NFPA 150	2000 Edition	Standard on Fire Safety in Racetrack Stables
NFPA 160	2006 Edition	Standard for Flame Effects Before an Audience
NFPA 170	2006 Edition	Standard for Fire Safety Symbols
NFPA 204	2002 Edition	Standard for Smoke and Heat Venting
NFPA 211	2003 Edition	Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances
NFPA 220	2006 Edition	Standard on Types of Building Construction
NFPA 221	2006 Edition	Standard for Fire Walls and Fire Barrier Walls
NFPA 303	2006 Edition	Fire Protection Standard for Marinas and Boatyards
NFPA 307	2006 Edition	Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves
NFPA 407	2007 Edition	Standard for Aircraft Fuel Servicing
NFPA 409	2004 Edition	Standard on Aircraft Hangars
NFPA 415	2002 Edition	Standard on Airport Terminal Buildings, Fueling Ramp Drainage, and Loading Walkways
NFPA 418	2006 Edition	Standard for Heliports
NFPA 430	2004 Edition	Code for the Storage of Liquid and Solid Oxidizers
NFPA 432	2002 Edition	Code for the Storage of Organic Peroxide Formulations
NFPA 434	2002 Edition	Code for the Storage of Pesticides
NFPA 484	2006 Edition	Standard for Combustible Metals, Metal Powders, and Metal Dusts
NFPA 490	2002 Edition	Code for the Storage of Ammonium Nitrate
NFPA 495	2006 Edition	Explosive Materials Code
NFPA 654	2006 Edition	Standard for the Prevention of Fire and Dust Explosions from the Manufacturing, Processing, and Handling of Combustible Particulate Solids
NFPA 664	2002 Edition	Standard for the Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities
NFPA 701	2004 Edition	Standard Methods of Fire Tests for Flame Propagation of Textiles and Films
NFPA 703	2006 Edition	Standard for Fire Retardant Impregnated Wood and Fire Retardant Coatings for Building Materials
NFPA 750	2006 Edition	Standard on Water Mist Fire Protection Systems

NFPA 801	2003 Edition	Standard for Fire Protection For Facilities Handling Radioactive Materials
NFPA 820	2003 Edition	Standard for Fire Protection in Wastewater Treatment and Collection Facilities
NFPA 901	2006 Edition	Standard Classifications for Incident Reporting and Fire Protection Data
NFPA 909	2005 Edition	Code for the Protection of Cultural Resources
NFPA 914	2007 Edition	Code for Fire Protection of Historic Structures
NFPA 1031	2003 Edition	Professional Qualifications for Fire Inspector and Plan Examiner
NFPA 1123	2006 Edition	Code for Fireworks Display
NFPA 1124	2006 Edition	Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles
NFPA 1126	2006 Edition	Standard for the Use of Pyrotechnics before a Proximate Audience
NFPA 1221	2007 Edition	Standard for the Installation, Maintenance, and Use of Emergency Services Communications Systems
NFPA 1402	2002 Edition	Guide to Building Fire Service Training Centers
NFPA 1403	2002 Edition	Standard on Live Fire Training Evolutions
NFPA 1961	2002 Edition	Fire Hose
NFPA 1962	2003 Edition	Inspection, Care, and Use of Fire Hose
NFPA 2001	2004 Edition	Standard on Clean Agent Fire Extinguisher Systems

B. All inspections and other evaluations of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal for review shall be made utilizing new construction requirements set forth in the *Life Safety Code* published by the National Fire Protection Association and the "Special Provisions for High-Rise Building" Section of the *Standard Building Code* published by the Southern Building Code Congress International as follows.

Building Constructed or Remodeled	Life Safety Code Edition	Section / Standard Building Code Edition	Sections / International Building Code Edition
prior to 1/1/1975	1967	-	-
1/1/1975 to 12/31/1979	1973	518 / 1974 Chapter 4 revisions to 1973	-
1/1/1980 to 8/31/1981	1976	518 / 1974 Chapter 4 revisions to 1973	-
9/1/1981 to 8/31/1986	1981	506 / 1979	-
9/1/1986 to 2/18/1989	1985	506 / 1985	-
2/19/1989 to 5/31/1992	1988	506 / 1985	-
6/1/1992 to 1/4/1995	1991	506 / 1988	-
1/5/1995 to 5/31/1998	1994	506 / 1991	-
6/1/1998 to 6/30/2001	1997	412 / 1994	-
7/1/2001 to 12/31/2001	2000	412 / 1994	-
1/1/2002 to 6/30/2004	2000	412 / 1997	-
7/1/2004 to 9/30/2007	2003	-	-
after 10/1/2007	2006	-	-

C. All references to performance based criteria in the *Life Safety Code* shall only be considered by the Office of State Fire Marshal after an appeal of a decision has been timely made.

D. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:145 (February 1975), amended LR 5:468 (December 1979), LR 6:71 (February 1980), amended by the Office of the State Fire Marshal, LR 7:588 (November 1981), LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 15:96 (February 1989), LR 17:1114 (November 1991), LR 23:1688 (December 1997), LR 27:857 (June 2001), LR 27:2257 (December 2001), repromulgated LR 29:183 (February 2003), amended LR 30:1303 (June 2004), LR 33:

### Chapter 3. Buildings

#### §303. Plans and Specifications for New Buildings

A. As of October 1, 2007, the plans and specifications for every structure built or remodeled in the state of Louisiana must be drawn in accordance with the requirements of the 2006 Edition of the *Life and Safety Code* (excluding Chapter 5) of the National Fire Protection Association. Chapter 5, Performance Based Option, may be used as a basis for appeal equivalency determinations.

B. - D. ...

E. Regarding "Building Rehabilitation," compliance in accordance with LAC 55:V.103.B shall be considered by the Office of State Fire Marshal as an equivalent alternative for compliance with the applicable existing chapter, where the applicable existing chapters are prescribed in the latest adopted NFPA 101 Life Safety Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:143 (February 1975), amended LR 5:468 (December 1979), LR 6:72 (February 1980), amended by the Office of the State Fire Marshal, LR 7:344 (July 1981), LR 7:588 (November 1981), LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 12:116 (February 1986), LR 15:96 (February 1989), LR 17:1115 (November 1991), LR 23:1692 (December 1997), LR 30:1305 (June 2004), LR 33:

#### Family Impact Statement

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

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

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

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

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

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the

ability of the family or local government to perform the function as contained in the proposed rules.

Interested persons may submit written comments on these proposed amendments to Henry Fry at 8181 Independence Boulevard, Baton Rouge, LA 70806. Comments will be accepted through close of business February 15, 2007.

Jill Boudreaux  
Undersecretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Code Standards

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

Additional costs, to state or local governments, are not anticipated as a result of implementation of these rules. The changes being made will update the editions of fire protection codes. The cost for the updated Code books is a part of the budget request and have already been purchased for these editions.

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

The proposed rule change 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)

There will be no additional cost or benefit to affected persons that this office regulates or non-governmental groups.

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

There will be no effect on competition and employment.

Jill P. Boudreaux  
Undersecretary  
0701#050

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Social Services Office of Family Support

Earned Income Tax Credit and Tax Assistance Program for Filers without Children (LAC 67:III.5801-5805)

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to adopt LAC 67:III, Subpart 17, Chapter 58, the Earned Income Tax Credit and Tax Assistance Program for Filers without Children.

Pursuant to Executive Order KBB 2005-17, Section 2C, the agency proposes to adopt Subpart 17, Chapter 58, the Earned Income Tax Credit and Tax Assistance Program for Filers without Children, to provide a tax filing service offered free of charge to low-income taxpayers. This program serves Earned Income Tax Credit (EITC) filers who are not TANF-eligible.

The federal EITC, a tax credit for low-income individuals and families whose income derives from employment, is the nation's largest anti-poverty program. Over 10 percent of low-income filers in Louisiana who qualify for EITC do not claim it due to lack of awareness and education on income tax issues. Of the number of filers who claim the credit, a

large number needlessly pay fees disproportionate to their income level to access their own tax refunds. The Earned Income Tax Credit and Tax Assistance Program for Filers without Children educates low-income taxpayers on eligibility for EITC and other credits, and provides a free tax filing service to those who can least afford to pay a commercial preparer. In improving Louisiana's access to and retention of a major federal tax credit for low-wage workers, the program rewards work while reducing poverty.

An Emergency Rule signed November 1, 2006, effected these changes and was published in the November 2006 issue of the *Louisiana Register*.

#### **Title 67**

### **SOCIAL SERVICES**

#### **Part III. Office of Family Support**

#### **Subpart 17. Earned Income Tax Credit and Tax Assistance Program for Filers without Children**

#### **Chapter 58. Earned Income Tax Credit and Tax Assistance Program for Filers without Children**

#### **Subchapter A. Designation and Authority of State Agency**

##### **§5801. Authority**

A. The Earned Income Tax Credit and Tax Assistance Program for Filers without Children Program is established in accordance with Executive Order KBB 2005-17 Louisiana Solutions to Poverty Network Council, effective November 1, 2006, to provide a tax filing service offered free of charge to low-income taxpayers.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 2005-17 Louisiana Solutions to Poverty Network Council.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

##### **§5803. Administration**

A. The Earned Income Tax Credit and Tax Assistance Program for Filers without Children Program shall be administered by the Department of Social Services, Office of Family Support through contracts with outside entities.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 2005-17 Louisiana Solutions to Poverty Network Council.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

#### **Subchapter B. Eligibility**

##### **§5805. Conditions of Eligibility**

A. Eligibility for services is limited to:

1. individuals without minor children who meet the U.S. Department of the Treasury Internal Revenue Service's Earned Income Tax Credit income eligibility standard; or

2. married couples without minor children who meet the U.S. Department of the Treasury Internal Revenue Service's Earned Income Tax Credit income eligibility standard.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 2005-17 Louisiana Solutions to Poverty Network Council.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

#### **Family Impact Statement**

1. What effect will this Rule have on the stability of the family? This Rule should have no impact on family stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The Rule will have no effect on 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 should have no impact on family functioning.

4. What effect will this have on family earnings and family budget? By increasing low-income workers' access to a major federal tax credit, this Rule may have a positive effect on a family's earnings and budget.

5. What effect will this have on the behavior and personal responsibility of children? The Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

All interested persons may submit written comments through February 22, 2007, to Adren O. Wilson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

A public hearing on the proposed Rule will be held on Thursday, February 22, 2007, at the Department of Social Services, Iberville Building, 627 North Fourth Street, Seminar Room I-129, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Ann S. Williamson  
Secretary

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

#### **RULE TITLE: Earned Income Tax Credit and Tax Assistance Program for Filers without Children**

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

This rule allows the Department of Social Services (DSS) to establish an Earned Income Tax Credit and Tax Assistance Program for Filers Without Children. This program will provide a tax filing service, offered free of charge, to low-income taxpayers who are eligible for EITC but not eligible for the TANF-funded free tax preparation service. This program is expected to serve approximately 5,000 Louisiana residents.

For FY 06/07, FY 07/08, and FY 08/09, the implementation costs for the EITC and Tax Assistance Program for Filers Without Children are estimated to be \$150,000. For FY 06/07, DSS will utilize State General Fund that was allocated in the Office of Family Support budget for TANF State Maintenance of Effort. For FY 07/08 and FY 08/09, State General Fund will have to be appropriated by the legislature to continue this program.

The cost of publishing the rule is estimated to be \$160. This is a one-time cost that is routinely included in the agency's annual budget. The total estimated implementation cost for FY 06/07 is approximately \$150,160.

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

It is anticipated that this program will produce an increase in revenue for state and local governmental units in the form of sales tax based on the assumption that the average \$300 received in EITC will be spent by individuals in their communities. The amount of sales tax revenue that would be generated is not determinable.

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

There are no anticipated costs to any persons or nongovernmental groups resulting from this proposed rule. Economic benefits to low-income working individuals (the directly affected group) include greater dollar amounts of tax refunds claimed and retained as a result of access to a free tax filing service. Additionally, recipients of the service will save an average of \$150 each in commercial tax preparation fees, resulting in a total savings of \$750,000 to Louisiana residents with the greatest financial need.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule has no impact on competition or employment.

Adren O. Wilson  
Assistant Secretary  
0701#068

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Social Services  
Office of Family Support  
Support Enforcement Services Program**

**Support Enforcement Services Program—Passport Denial  
(LAC 67:III.2547)**

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to adopt Title 67, Part III, Subpart 4, Support Enforcement Services (SES), Chapter 25, Subchapter L, Section 2547, Passport Denial, which provides for the denial, revocation, and restriction of a passport to individuals who owe past due child support.

Section 370 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (P.L. 104-193), amended the Social Security Act by adding Subsection 452(k) providing for the denial, revocation, and restriction of United States passports to individuals who owe past due child support amounts in excess of the federally-mandated threshold. The Deficit Reduction Act of 2005 amends these provisions and states that any person certified by the Secretary of Health and Human Services (HHS) to the Secretary of State as owing past due child support in an amount exceeding \$2,500 is ineligible to receive a United States passport.

This amendment is necessary to maximize collections and ensure Louisiana's continued compliance with federal regulations.

**Title 67**

**SOCIAL SERVICES**

**Par III. Family Support**

**Subpart 4. Support Enforcement Services**

**Chapter 25. Support Enforcement**

**Subchapter L. Enforcement of Support Obligations**

**§2547. Passport Denial**

A. SES shall administratively collect past due child support in accordance with the Passport Denial Program. Individuals owing past due child support amounts in excess of the federally-mandated threshold will be automatically certified to the United States Department of State for passport denial unless the state agency certifying their past due support amount excludes them from this remedy.

B. SES will send an advance notice to each non-custodial parent owing past due child support whose name will be submitted for the Passport Denial Program. This notice will advise the non-custodial parent of the right to request an administrative review of the past due support with the state(s) that has certified them for the debt.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 652(k)(1), 42 USC 654(31) and DCL-06-14.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

**Family Impact Statement**

1. What effect will this Rule have on the stability of the family? Implementation of this Rule should have a positive impact on family stability, as it will improve the collection of past due child support.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? This Rule should positively effect family functions by increasing the amount of past due child support collected.

4. What effect will this have on family earnings and family budget? This Rule should have no effect on family earnings but may have a positive effect on family budgets by allowing for collection of past due child support.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

Interested persons may submit written comments by February 22, 2007 to Adren O. Wilson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-90656. He is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on Thursday, February 22, 2007, at the Department of Social Services, Iberville Building, 627 North Fourth Street, First Floor, Room 129, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit

data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Ann Silverberg Williamson  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Support Enforcement Services  
Program—Passport Denial**

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

The proposed rule will allow the State to implement federal law for passport denial to individuals who owe past due child support in an amount exceeding the \$2,500 federally-mandated threshold amount. This will bring state policy in line with federal law.

The proposed rule would result in the cost of publishing rulemaking and printing policy, which is estimated to be approximately \$600. This is a one-time cost that is routinely included in the agency's budget.

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

This rule is estimated to have no effect on revenue collections of any governmental units.

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

There are no anticipated costs to any persons or non-governmental groups. Adoption of this Rule may have a favorable economic impact on the custodial parties by increasing arrears collections from individuals who owe past due child support.

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

The proposed rule will have no impact on competition and employment.

Adren O. Wilson  
Assistant Secretary  
0701#088

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Social Services  
Office of Family Support**

**TANF Homeless Initiative (LAC 67:III.5589)**

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to adopt LAC 67:III, Subpart 15, Chapter 55, §5589, Homeless Initiative, as a new TANF Initiative.

Pursuant to Act 17 of the 2006 Regular Session of the Louisiana Legislature, the agency proposes to adopt the Homeless Initiative to end the cycle of homelessness in Louisiana by stabilizing homeless families and aiding these families in establishing permanent housing and becoming self-sufficient.

This Rule was effected December 1, 2006, by a Declaration of Emergency published in the December 2006 issue of the *Louisiana Register*.

**Title 67**

**SOCIAL SERVICES**

**Part III. Family Support**

**Subpart 15. Temporary Assistance to Needy  
Families (TANF) Initiatives**

**Chapter 55. TANF Initiatives**

**§5589. Homeless Initiative**

A. Effective December 1, 2006, the Office of Family Support shall enter into contracts with public agencies, non-profit organizations, or for-profit organizations to end the cycle of homelessness in Louisiana by providing services to homeless families which include but are not limited to comprehensive case management, educational and employment opportunities for adult participants, community referrals, life skill modules, housing options and direct services to provide for basic needs.

B. These services meet the TANF goals to provide assistance to needy families so children may be cared for in their own homes or in the homes of relatives.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family consists of minor children, custodial parents, legal guardians, or caretaker relatives of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 17, 2006 Reg. Session

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

**Family Impact Statement**

1. What effect will this Rule have on the stability of the family? The purpose of this initiative is to stabilize families by aiding them in establishing permanent housing and providing resources to help them become self-sufficient.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? An effect on the authority and rights of persons regarding the education and supervision of their children is not foreseen at this time.

3. What effect will this have on the functioning of the family? As a result of families participating in the Homelessness program, a positive effect on the functioning of the family should occur due to families being able to receive comprehensive case management, community referrals, life skill modules, four month service delivery recovery plan, etc.

4. What effect will this have on family earnings and family budget? Upon beginning the homelessness program, participants have very little, if any, earnings. An increase in family earnings and is expected because of the resources

families will receive to become self-sufficient and obtain permanent housing.

5. What effect will this have on the behavior and personal responsibility of children? An effect on the behavior and personal responsibility of children is not foreseen at this time.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

All interested persons may submit written comments through, February 22, 2007 to Adren O. Wilson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

A public hearing on the proposed Rule will be held on Thursday, February 22, 2007, at the Department of Social Services, Iberville Building, 627 North Fourth Street, Seminar Room I-129, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Ann Silverberg Williamson  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: TANF Homeless Initiative

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

This rule will allow the Department of Social Services to implement the TANF Homeless Initiative to end the cycle of homelessness in Louisiana. This program will serve approximately 310 individuals and will provide services that will include, but are not limited to, comprehensive case management, educational and employment opportunities for adult participants, community referrals, life skill modules, housing options and direct services to provide for basic needs.

The implementation costs for the Homeless Initiative are estimated to be \$1,000,000 for FY 06/07, FY 07/08 and FY 08/09. For FY 06/07 the initiative is being funded with \$750,160 from Louisiana's TANF Block Grant and \$250,000 state maintenance-of-effort funds. For FY 07/08 and FY 08/09, this initiative will be funded with 100% Louisiana TANF Block Grant Funds.

The cost of publishing the rule is estimated to be \$160. This is a one-time cost that is routinely included in the agency's annual budget. The total estimated implementation cost for FY 06/07 is approximately \$1,000,160.

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

This 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)

An increase in family earnings is expected because of the resources (i.e., educational and employment opportunities, housing options, and direct services to provide for basic needs) families will receive to become self-sufficient and obtain permanent housing.

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

The rule will have no impact on competition and employment.

Adren O. Wilson  
Assistant Secretary  
0701#069

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Social Services Office of Family Support

#### TANF Initiatives—Earned Income Credit (EITC) Program (LAC 67:III.5581)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 15, Chapter 55, §5581, Earned Income Tax Credit Program.

Pursuant to Act 16 of the 2005 Regular Legislative Session, and Act 17 of the 2006 Regular Legislative Session, the agency proposes to amend the TANF goal being met by the services provided under §5581, Earned Income Tax Credit (EITC) Program, from TANF Goal 4 to TANF Goal 2, and to establish income eligibility factors for the services.

Additionally, the program is being amended to include financial literacy as an additional service.

These changes were effected by an Emergency Rule signed November 1, 2006, and published in the November 20, 2006 issue of the *Louisiana Register*.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Family Support

#### Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

#### Chapter 55. TANF Initiatives

#### §5581. Earned Income Tax Credit (EITC) Program

A. The agency has entered into contracts to provide public awareness, education and targeted outreach strategies regarding the benefits of claiming the Earned Income Tax Credit (EITC) Program, state tax credit programs, and free taxpayer assistance effective November 1, 2006, to EITC-eligible families, and to provide financial literacy to families receiving services under this program. Strategies include collaboration with the Internal Revenue Service, various state departments and the targeted expansion of existing outreach activities to assure that free taxpayer assistance to EITC-eligible families is available statewide.

B. These services meet the TANF goal, effective November 1, 2006, to end dependence of needy parents by promoting job preparation, work, and marriage.

C. Effective November 1, 2006, eligibility for services is limited to those families with minor children who meet the Internal Revenue Service's EITC income eligibility standards.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 1, 2004 Reg. Session, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 31:1610 (July 2005), amended LR 33:

**Family Impact Statement**

1. What effect will this Rule have on the stability of the family? Economic benefits to low-income working families (the directly affected group) include the potential for long-term family financial stability due to increased financial knowledge as a result of financial literacy trainings.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The Rule will have no effect on 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 should have no impact on family functioning.

4. What effect will this have on family earnings and family budget? Adding financial literacy as a component of the EITC Program may have a positive effect on a family's earnings and budget.

5. What effect will this have on the behavior and personal responsibility of children? The Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, these programs are strictly an agency function.

All interested persons may submit written comments through February 22, 2007, to Adren O. Wilson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

A public hearing on the proposed Rule will be held on Thursday, February 22, 2007, at the Department of Social Services, Iberville Building, 627 North Fourth Street, Seminar Room I-129, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Ann S. Williamson  
Secretary

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

**RULE TITLE: TANF Initiatives—Earned Income  
Credit (EITC) Program**

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

This rule places Earned Income Tax Credit (EITC) Outreach and Tax Assistance programs under TANF Goal 2, "to end dependence of needy parents by promoting job preparation work, and marriage", provides for a financial literacy-training component to be included in the program, and defines EITC eligible families.

There are no immediate costs to any state or local governmental units other than the one-time cost of publishing

rulemaking, which is estimated to be approximately \$160. These costs are routinely included in the agency's annual budget.

There are no estimated savings to state or local governmental units resulting from this rule.

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

The proposed rule will have no impact on the revenue collections of state and local governmental units.

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

Economic benefits to low-income working families (the directly affected group) include the potential for long-term family financial stability due to increased financial knowledge as a result of financial literacy trainings. There are no anticipated costs to any persons or nongovernmental groups as a result of this rule.

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

The proposed rule has no impact on competition or employment.

Adren O. Wilson  
Assistant Secretary  
0701#070

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Transportation and Development  
Office of Weights and Standards**

**Violation Ticket Review Committee  
(LAC 73:I.1201 and 1216)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to amend Chapter 12 of Title 73 entitled "Violation Ticket Review Committee", in accordance with R.S. 32:389.

**Title 73**

**WEIGHTS, MEASURES AND STANDARDS**

**Part I. Weights and Standards**

**Chapter 12. Violation Ticket Review Committee**

**§1201. Composition of Violation Ticket Review  
Committee**

A. One representative of the Office of Management and Finance to be appointed by the undersecretary of management and finance.

B. One representative of the DOTD Legal Section to be appointed by the general counsel.

C. One representative of the Office of Operations to be appointed by the assistant secretary.

D. Four representatives of the Office of Engineering to be appointed by the chief engineer.

E. The DOTD Weights and Standards Administrator or his designee shall be a non-voting member.

F. Four of seven voting members present is a quorum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389 (D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and

Standards, LR 22:372 (May 1996), amended LR 28:522 (March 2002), LR 33:

**§1216. Consideration by Review Panel**

A. - C. ...

D. The review panel shall be convened upon the motion of the chairman a minimum of every 90 days. The department shall provide all information necessary or required concerning the tickets reviewed by the review panel. The protestor, upon his request, may appear at the meetings of the review panel.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389 (D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:523 (March 2002), LR 33:

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this Notice of Intent. Such comments should be submitted to Denny Silvio, Weights and Standards Administrator, P.O. Box 94042, Baton Rouge, LA 70804-9052, (504) 377-7100.

Johnny B. Bradberry  
Secretary

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

**RULE TITLE: Violation Ticket Review Committee**

**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 as a result of this rule change. It merely adds three voting members to the existing violation ticket review committee. All members serve on the committee as part of their current job responsibilities. The rule also extends from 60 to 90 days the intervals for meetings of the third tier of review, reflecting the necessity for fewer meetings at that level.

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

There should be no effect on revenue collections of state or local governmental units as a result of this rule change.

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

There should be no costs or economic benefits to directly affected persons or non-governmental groups as a result of this rule change.

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

There should be no effect on competition or employment as a result of this rule change.

Johnny B. Bradberry  
Secretary  
0701#051

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Treasury  
Board of Trustees of the Louisiana State Employees'  
Retirement System**

Sunset (LAC 58:I.3519)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes to repeal LAC 58:I.3519, regarding the sunset date for the Optional Retirement Plan ("ORP"). The repeal is proposed because that date has been changed through legislation, rendering the Rule obsolete. This proposed Rule change complies with and is enabled by R.S. 11:515.

No preamble for this proposed Rule is necessary.

**Title 58**

**RETIREMENT**

**Part I. Louisiana State Employees' Retirement System**

**Chapter 35. Optional Retirement Plan**

**§3519. Sunset**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1492 (July 2000), amended LR 29:1121 (July 2003), repealed LR 33:

**Family Impact Statement**

Act 923 of 2004 made changes to the Optional Retirement Plan of LASERS and established a new sunset date of December 7, 2007, after which no new members will be allowed to enter the plan. The proposed Rule change repeals LAC 58:I.3519 in its entirety as it is now obsolete. This proposed Rule change 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., March 2, 2007, 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: Sunset**

- 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)  
La. R.S. 11:502.2 supersedes LAC 58:I.3519, setting out a sunset date of December 07, 2007; hence, repeal of this regulation (containing an older, now obsolete sunset date) will not directly affect any persons or non-governmental groups. Consequently, there are no associated costs or economic benefits.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No effect on competition or employment in the public or private sectors is anticipated to result from the proposed rule change.

Cindy Rougeou  
Executive Director  
0701#056

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Treasury  
Board of Trustees of the Louisiana State  
Employees' Retirement System**

**Voluntary Deductions from Retiree Benefits Payroll  
(LAC 58:I.1101 and 1103)**

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes to amend LAC 58:I.1101 and LAC 58:I.1103, which provide for voluntary deductions by LASERS retirees from their retirement benefits. They are being amended in order to comply with the Pension Protection Act of 2006 by allowing additional choices of insurance through an enhanced array of vendors. These proposed Rule changes comply with and are enabled by R.S. 11:515.

Recently, the United States Congress enacted the Pension Protection Act of 2006, which affects LASERS because its membership is made up in part of certain public safety retirees covered under the Act. LASERS must provide these persons with the opportunity for a tax-free distribution of up to \$3000 per year for the payment of accident, health or long-term care insurance.

No preamble for these proposed Rules is necessary.

**Title 58  
RETIREMENT**

**Part I. Louisiana State Employees' Retirement System  
Chapter 11. Voluntary Deductions from Retiree  
Benefits Payroll**

**§1101. Application Process for Voluntary Payroll  
Deduction**

A. Application shall be made by the company, corporation, or organization which is the provider of coverage, product, service, or recipient of monies and shall be signed by two officers of the applicant company, corporation, or organization. The completed application shall be submitted to LASERS.

B. The following type providers of services shall be considered for approval:

1. the State Group Benefits program;
2. the group insurance plan administered by the Department of Employment and Training;
3. the Retired State Employees' Association;
4. general insurance companies and other providers that are included on the annual listing maintained by the Office of State Uniform Payroll;
5. credit unions formed for the primary purpose of serving state employees that have a payroll deduction for employees of the members' agencies;
6. other member or retiree associations approved by the board of trustees;
7. vendors receiving payment through voluntary deductions on the effective date of these rules; and
8. other insurance companies approved by the board of trustees.

C. Applicant shall designate a coordinator to act as primary contact with LASERS for resolution of invoicing, refund, and reconciliation problems and resolving claims problems for retirees.

D. All vendors shall file annual renewal applications with LASERS.

E. Applications shall be received by LASERS between June 1 and July 30 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), LR 33:

**§1103. Applicant and Vendor Requirements**

A. General insurance vendors shall meet the requirements established by the Division of Administration and shall either be included on the annual listing maintained by the Office of State Uniform Payroll or approved by the board of trustees.

B. Any provider who qualifies to submit an application under §1101.B.5 or B.7 above shall meet the regulatory requirements of the appropriate federal or state regulatory agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), 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. 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., March 02, 2007, 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: Voluntary Deductions from Retiree Benefits Payroll

#### 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.

#### 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)

Persons who are directly affected are certain retired public safety officers. An eligible retired public safety officer is an individual who, by reason of disability or attainment of normal retirement age, is separated from service as a public safety officer as determined under the Pension Protection Act of 2006. The proposed rule amendments give affected persons an opportunity for a tax-free distribution of up to \$3000 per year from LASERS to a provider of accident, health or long-term care insurance. No costs to affected persons are anticipated to result from the proposed rule amendments. There may be benefits to non-governmental groups, such as insurance providers, but LASERS cannot provide an estimate at this time.

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

Competition or employment in the public or private sectors could benefit from the proposed rule amendments. LASERS cannot estimate this potential impact at this time.

Cindy Rougeou  
Executive Director  
0701#057

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Paddlefish (LAC 76:VII.137)

The Wildlife and Fisheries Commission hereby advertises its intent to amend the following proposed Rule on paddlefish (*Polyodon spathula*) in portions of Louisiana. Authority to establish these regulations is vested in the commission by R.S. 56:497(C).

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 1. Freshwater Sports and Commercial Fishing

#### §137. Paddlefish

A. The incidental take and possession of paddlefish (*Polyodon spathula*), commonly called spoonbill catfish, shall be regulated by the following provisions. Paddlefish as referred herein shall include roe and any parts thereof.

1. Properly licensed recreational fishermen using legal recreational gear may take paddlefish as per the following provisions. No person shall take or possess paddlefish in violation of any of the provisions herein.

a. Area—the taking or possession of paddlefish is closed in all saltwater areas of the state and in border waters shared with Texas.

b. All possessed paddlefish must be dead. The possession or transportation of live paddlefish is prohibited.

c. All paddlefish possessed on the waters of the state shall be maintained intact.

d. No person shall possess paddlefish eggs on the waters of the state which are not fully attached to the fish.

e. Daily Take and Possession Limit—the daily take and possession limit of paddlefish is two per person.

f. Maximum Size Limit—all paddlefish greater than 30 inches (lower jaw fork length) must be returned to the water immediately. Lower jaw fork length is the distance from the tip of the lower jaw to the mid-line of the caudal fin.

2. The commercial take and possession of paddlefish is prohibited. No person shall purchase, sell, barter, exchange or trade or attempt to purchase, sell, barter or trade paddlefish, their eggs or parts thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:325.C. and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 12:368 (June 1986), LR 15:868 (October 1989), amended by the Department of Wildlife and Fisheries, Office of Fisheries, LR 18:978 (September 1992), amended 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 at R.S. 49:972(B).

Interested persons may submit written comments on the proposed Rule to Gary Tilyou, Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., March 6, 2007.

Terry D. Denmon  
Chairman

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

- 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. Implementation and enforcement of the proposed rule will be carried out using existing staff.
- 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 and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The proposed rule may directly benefit freshwater recreational fishermen who choose to retain incidentally caught paddlefish. Recreational fishermen will be allowed to take and possess two paddlefish per day that are less than or equal to 30 inches in length from the tip of the lower jaw to the mid-line of the caudal fin. Economic benefits cannot be quantified using existing data.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The proposed rule will have no impact on competition and employment in the public or private sectors.

Wynette Kees  
Deputy Undersecretary  
0701#038

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Special Bait Dealer's Permit (LAC 76:VII.329)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend a Rule, LAC 76:VII.329, which provides for a special bait dealer's permit program. Authority to establish these regulations is vested in the commission by R.S. 56:497(C). The proposed Rule is attached and made a part of this Notice of Intent.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing

of the Fiscal and Economic Impact 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 3. Saltwater Sport and Commercial Fishery §329. Special Bait Dealer's Permit

A. Policy. The special bait dealer's permit is intended solely for the benefit of the recreational fishing public which desires to use live shrimp and live croaker as bait during the closed season between the spring and fall shrimp seasons. Its purpose is to allow the uninterrupted operation of those commercial establishments which sell live bait shrimp and live croaker to the fishing public during the spring and fall shrimp season. The permit is not intended for the direct use of recreational fishermen, charter boats, commercial fishermen who sell dead shrimp or croaker, or for any other entity which may wish to catch shrimp or croaker for their own use during the closed season.

#### B. Application

1. Applications for the special bait dealer's permit will be accepted from January 1 through April 30 of each year. All applications should be mailed to the department via certified mail.

2. Applications will be accepted only from the owner of an existing business which sells or plans to sell live bait to recreational fishermen.

3. Applications must be notarized and made on forms provided by the department; all information requested must be provided before the application will be processed.

4. Applicants must show proof of having acquired all necessary licenses and permits before the permit will be issued. This includes, if relevant, boat registration, vessel license, gear license, commercial fishing licenses, and name of fisherman; wholesale/retail seafood dealers license, state sales tax number, and a copy of the applicant's and the fisherman's valid drivers license. A background check for wildlife violations of the applicant and the fisherman will be made. Any person convicted of any Class 2 or greater wildlife or fisheries violation within the previous three years prior to the date of application shall not qualify to obtain a special bait dealer's permit or be onboard any vessel engaged in permitted activities.

5. Beginning in 2008, applicant must post a \$1,000 cash bond before the permit is issued. This bond will be forfeited if the permittee, his employee, or his contractor violates any provision of the rules and regulations concerning the special bait dealer's permit or if the permittee, his employee, or his contractor violates any commercial fishing law or regulation while operating under the permit.

6. Before the permit is issued an agent of the department must inspect the facilities of the applicant and verify that the applicant is operating a commercial establishment which sells live shrimp or live croaker to the fishing public for use as bait, and that the applicant does have facilities to maintain live shrimp or croaker. Notice to the public must be posted that live bait shrimp or croaker are available for sale. The applicant must have onshore facilities, including tanks with a minimum capacity of 500 gallons, available to hold live shrimp or live croaker. These tanks

must have provisions for aeration and/or circulation of the water in which live shrimp or croaker are held prior to sale. In determining total tank capacity of onshore facilities, the agent shall not count any tank with a capacity of less than 50 gallons.

7. Only the applicant, his designated employee, or his contractor may operate under the permit. At the time of application, the applicant will specify the vessel and who will be working under the permit. Should the vessel or these persons change, the applicant shall submit an amended application listing the vessel or those persons and be in receipt of an approved amended permit before the new vessel or persons operate under the permit. The permit is not transferable to any other person or vessel. The entire original permit must be carried on the vessel while in operation.

8. No person shall transfer any shrimp or croaker taken under a permit from one vessel to another.

#### C. Operations

1. Only the vessel and captains listed in the permit shall be used with the permit. Live wells, aeration tanks, and other vessel facilities to maintain live shrimp or croaker must be carried on or built into this vessel; it must be used for both taking and transporting the live shrimp or croaker. The vessel must have a minimum of one compartment or tank with a minimum capacity of 50 gallons. No other vessel may be used under the permit. Signs which identify the vessel as working under the special bait dealer's permit shall be posted on the vessel. These signs shall be visible from either side of the vessel and from the air; the word "BAIT" and the permit number shall be placed on these signs in letters at least 12 inches high.

2. Permitted gear is limited to one trawl not to exceed 25 feet along the cork line 33 feet along the lead line or two skimmer nets having an individual net frame size not more than 12 and 1/2 feet measured horizontally or 12 feet measured vertically or 17 feet 4 inches measured diagonally. These are the only gears which can be used or carried aboard the permitted vessel while the vessel is operating under the permit; no other commercial fishing gear may be on the vessel when it is being used under permit.

3. No more than two gallons of dead shrimp or croaker or combination thereof may be aboard the vessel while it is operating under the permit. All dead shrimp or croaker or combination thereof in excess of two gallons must be immediately returned to the water. Shrimp or croaker dying in onshore holding facilities may be sold for bait use only, in lots not to exceed 16 ounces in weight.

4. Bait shrimp or croaker may be taken only from official sunrise to official sunset; no night fishing is allowed under this permit.

5. The entire original permit must be in the possession of the person operating the vessel while it is engaged in taking shrimp or croaker under the terms of the permit.

6. Each time the permit is used the permittee must notify the department by contacting the communications section on the designated toll free telephone number provided on the permit and recording the confirmation number received. Before the vessel departs the dock under

the permit, the department must be advised of the time of departure and the sub-basin code corresponding to the department's trip ticket sub-basin map in which trawling or skimming will take place; immediately after the permitted vessel returns to the dock the department must be notified of the time of return by contacting the communications section on the designated toll free telephone number provided on the permit.

7. The permittee shall maintain an up-to-date record of the activities conducted under the permit on forms provided by the department for that purpose. These records shall be kept onboard the vessel and made available for inspection by agents of the department upon request by said agents at any time and shall include the permittee's name and permit number, date, departure time, fishing location, gear used, confirmation number, return time, and number of live shrimp or live croaker harvested. All applicable record information shall be completed before fishing operations begin. In addition, any agent of the department shall be allowed to make an on site inspection of any facilities operating under the permit, at any time. Permittee shall submit to the department, not later than September 1 following the live bait season, this record of permit activities on forms provided by the department. Nothing herein this Section shall exempt the permittee from trip ticket reporting requirements as provided for in R.S. 56:306.4.

#### D. Penalties

1. No person shall violate any provision of this Section. Violations of any provision of this Section shall constitute a Class 4 violation as defined in R.S. 56:34.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 56:326.3 and 56:497(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, and Wildlife and Fisheries Commission, LR 3:210 (April, 1977), amended LR 15:867 (October, 1989), LR 19:215 (February, 1993), LR 23:86 (January, 1997), 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 Martin Bourgeois, Marine Fisheries Biologist, Marine Fisheries Division, Box 98000, Baton Rouge, LA 70898-9000, prior to Monday, March 5, 2007.

Terry D. Denmon  
Chairman

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Special Bait Dealer's Permit

#### 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. Implementation and enforcement of the proposed rule amendment will be carried out using existing staff.

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

The proposed rule amendment will have no effect 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 amendment is anticipated to provide some economic benefits to Special Bait Dealer's Permit holders and their vessel captains by being allowed to use skimmer nets to harvest live bait. Studies have indicated that skimmer nets are one of the most efficient gears used to harvest live shrimp in shallow water areas, resulting in lower harvest costs and increased harvest per unit effort, compared to the current allowable gears.

Recreational fishermen may also benefit from efficiency associated with the use of skimmer nets through lower live bait prices.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule amendment is anticipated to have little or no impact on competition and employment in the public or private sectors.

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