

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences
Seed Commission

Germination Tolerance Standards (LAC 7:XIII.105 and 207)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 3:1433, the Department of Agriculture and Forestry, Office of the Louisiana Seed Commission, proposes to amend regulations regarding germination tolerances for seed and the sugarcane (tissue culture) greenhouse requirements.

The proposed changes to the Rule update germination tolerance standards in order to meet current germination standards set by the Association of Official Seed Analysts in 2005 and to amend Sugarcane (Tissue Culture) Certification Standards in order to prevent the introduction and spread of potentially harmful insects and diseases to foundation sugarcane stock. This Rule is enabled by R.S. 3:1431 and 3:1433.

Title 7
AGRICULTURE AND ANIMALS
Part XIII. Seeds

Chapter 1. Louisiana Seed Law
Subchapter A. Enforcement of the Louisiana Seed Law
§105. Tolerances

A. Except as otherwise provided in this Section, the tolerances published in the latest rules and regulations for testing seed by the Association of Official Seed Analysts shall be applicable in the administration of the Louisiana Seed Law.

B. Germination Tolerances. The following tolerances which are recognized by the Federal Seed Act, 7 USC 1551-1611, are adopted and are applicable to the percentage of germination and also to the sum of the germination plus the hard seed.

Maximum Tolerance Values between Two and Four Replicates of 100 Seeds in a Germination Test							
Average percent Germination		No. replicates of 100 seeds		Average percent Germination		No. replicates of 100 seeds	
A	B	4	2	A	B	4	2
A	B	C	D	A	B	C	D
84	17	14	11	60	41	19	15
83	18	15	12	59	42	19	15
82	19	15	12	58	43	19	15
81	20	15	12	57	44	19	15
80	21	16	13	56	45	19	15
79	22	16	13	55	46	20	15
78	23	16	13	54	47	20	16
77	24	17	13	53	48	20	16
76	25	17	13	52	49	20	16
				51	50	20	16

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:104 (April 1978), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 33:

Subchapter C. Certification of Specific Crops/Varieties
§207. Sugarcane (Tissue Culture) Certification Standards

A. Limitation of Stand Eligibility

1. Source of foundation stock is limited only to material obtained from the Louisiana State University Agricultural Center (LSUAC) or USDA-ARS Sugarcane Research Unit sugarcane variety selection programs that has been processed through the LSUAC sugarcane quarantine program.

2. Additional propagation of original foundation stock shall be according to procedures determined by the American Sugar Cane League, the Louisiana Department of Agriculture and Forestry, the LSUAC, and the USDA-ARS Sugarcane Research Unit.

3. Source of registered stock is limited to plantlets produced through tissue culture of foundation material or the first ratoon. Stock that meets all standards except insect and/or weeds standards be maintained in the program as seed increase fields only, but may not be marketed to producers. Such stocks are eligible for re-certification once they come in compliance with applicable regulations.

4. Source of certified stock is limited to:

- a. three consecutive years from planting of registered stock; and
- b. two consecutive harvests of certified stock.

B. Greenhouse Requirements

1. Foundation plants and plantlets shall be kept in certified greenhouses.

2. Certified greenhouses shall comply with the following requirements:

- a. all sugarcane plants within the certified greenhouse must have been processed through the LSUAC sugarcane quarantine program;

Maximum Tolerance Values between Two and Four Replicates of 100 Seeds in a Germination Test							
Average percent Germination		No. replicates of 100 seeds		Average percent Germination		No. replicates of 100 seeds	
A	B	4	2	A	B	4	2
A	B	C	D	A	B	C	D
99	2	5	--	75	26	17	14
98	3	6	--	74	27	17	14
97	4	7	6	73	28	17	14
96	5	8	6	72	29	18	14
95	6	9	7	71	30	18	14
94	7	10	8	70	31	18	14
93	8	10	8	69	32	18	14
92	9	11	9	68	33	18	15
91	10	11	9	67	34	18	15
90	11	12	9	66	35	19	15
89	12	12	10	65	36	19	15
88	13	13	10	64	37	19	15
87	14	13	11	63	38	19	15
86	15	14	11	62	39	19	15
85	16	14	11	61	40	19	15

- b. greenhouses shall be clearly marked to warn workers that they shall not enter if they are coming from the field or from other non-certified greenhouses;
- c. doors shall be kept locked when the greenhouse is not in use;
- d. sticky traps or other monitoring devices shall be used to monitor aphids and other insects;
- e. screens of such mesh as to prevent entry of aphids and other insects shall be placed over all openings (vents, fans, windows, etc.);
- f. aphids, whiteflies or other harmful insects shall be controlled within the greenhouse;
- g. cutting tools shall be decontaminated on a regular basis and always when moving to another group of foundation plants or plantlets;
- h. different varieties must be clearly identified and separated.

3. Foundation stock shall be tested on a yearly basis for Sugarcane Ratoon Stunting Disease (RSD) and Sugarcane Yellowleaf Virus.

a. Tissue sample testing and protocol shall be provided by the LSU Ag Center Sugarcane Disease Detection Lab. The certifier shall provide to the Louisiana Department of Agriculture and Forestry verification that foundation stock has been tested for Sugarcane Ratoon Stunting Disease (RSD) and Sugarcane Yellowleaf Virus.

4. LDAF must approve greenhouses before foundation plants can be entered into the certification program.

5. Inspections

a. Producer shall inspect and/or sample the greenhouse on a regular basis for harmful diseases and insects. If symptomatic plants are found either visually or by sample test results, they will be removed and destroyed. The grower will keep a log showing that inspections were made and if plants were removed.

b. If problems are observed during these inspections the producer should notify LDAF.

c. LDAF may inspect certified greenhouses several times during the year as needed. If symptomatic plants are found during these inspections they must be rogued and disposed of properly.

C. Field Inspections and Sampling

1. At least four field inspections by Louisiana Department of Agriculture and Forestry inspectors shall be made each year to determine if certified seedcane is being produced that apparently meets field standards.

2. The third inspection to be conducted in June by Louisiana Department of Agriculture and Forestry inspectors will include the collection of leaf samples for the detection of Sugarcane Yellow Leaf Virus.

3. Individual fields shall be sampled by Louisiana Department of Agriculture and Forestry inspectors for the detection of Sugarcane Yellow Leaf Virus according to the following guidelines.

Field Size in Acres	# Leaf Tissue Samples per Field
Less than 5 Acres *	25
5 - 10 Acres	50
Greater than 10 Acres	75
*Minimum of 25 Leaf Tissue Samples per Field	

D. Land Requirements. The land shall be fallowed one summer from the previous crop.

E. Field Standards

Factor	Foundation	Registered	Certified
Isolation	10 ft.	10 ft.	10 ft.
Other Varieties (obvious)	None	1.00%	1.00%
Off-Type (definite)	None	1.00%	1.00%
Noxious Weeds:			
Johnsongrass	None	5 Plants/Acre	5 Plants/Acre
Itchgrass	None	1 Plant/Acre	1 Plant/Acre
Other Weeds: Browntop panicum (Panicum fasciculatum)	None	20 Plants/Acre	20 Plants/Acre
Harmful Diseases:			
*Sugarcane Yellow Leaf Virus	None	10.00%	10.00%
** Sugarcane Mosaic Virus	None	10.00%	10.00%
** Sugarcane Smut	None	0.50%	0.50%
Harmful Insects:			
***Sugarcane Borer	None	5.00%	5.00%
*Determined by lab analysis for the LSU Sugarcane Disease Detection Lab			
**Plants exhibiting symptoms.			
***Determined by percentage of internodes bored.			

F. Stock Handling

1. General Requirements

a. During harvest, constant care should be taken in the handling of certified seed to ensure genetic identity and purity.

b. Stock shall be labeled or identified in a manner such as to represent a lot or field.

c. Planting stock shall be subject to inspection by the Louisiana Department of Agriculture and Forestry at any time during the harvest season.

G. Reporting System

1. No certified seed tags will be issued for certified sugarcane stock.

2. The certifier shall be furnished certification forms by the Louisiana Department of Agriculture and Forestry and shall:

a. issue a copy of the certification form to the purchaser for each load;

b. send a copy of each issued certification form to the Louisiana Department of Agriculture and Forestry within 10 days after each sale; and

c. maintain a copy of each issued certification form on file, which shall be available for examination by the Louisiana Department of Agriculture and Forestry upon request.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 23:1284 (October 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Seed Commission, LR 30:1143 (June 2004), amended by the Department of Agriculture and Forestry,

Family Impact Statement

The proposed amendments to Title 7 Part XIII §105 and §207 regarding germination tolerances and sugarcane (tissue culture) certification standards should not have any known or foreseeable impact on any family as defined by R. S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

All interested persons may submit written comments on the proposed Rule through April 23, 2007, to Eric Gates, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above. No preamble concerning the proposed Rule is available.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Germination Tolerance Standards**

- 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.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is estimated to be no effect on revenue collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is estimated to be no costs or economic benefits to directly affected persons or non-governmental groups. Because these persons or non-governmental groups are currently meeting the national standards these amendments merely bring Louisiana's requirements for seed standards up to national standards currently being met by the industry.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed amendments are not anticipated to have an effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0703#025

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of Entertainment Industries Development**

Entertainment Industry Tax Credit Programs
(LAC 61:I.Chapter 16)

The Department of Economic Development, Office of Business Development, Office of Entertainment Industries Development pursuant to the authority of R.S. 47:6007 and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to adopt the following Rules of the Louisiana Entertainment Industry Tax Credit Programs, specifically the Motion Picture Production and Infrastructure Tax Credit Programs. The purpose of the Rules is to establish program policies and procedures in the administration of the Motion Picture Incentive Program which includes a production and infrastructure portion.

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 Rules 61:I.Chapter 16. Subchapter A. Louisiana Motion Picture Investor Tax Credit Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

Interested persons should submit written comments on the proposed Rules to Christopher Stelly through the close of business on April 20, 2007, at P. O. Box 94185, Baton Rouge, LA 70804-9185 or 1051 North Third Street, Baton Rouge, LA 70802. Comments may also be submitted by email to cstelly@la.gov or by fax to 225-342-5403. A meeting for the purpose of receiving the presentation of oral comments will be held on April 24, 2007 at the Department of Economic Development, 1301 N. 3rd St., Baton Rouge, LA.

Sherri McConnell
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Entertainment Industry Tax Credit Programs**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rules will have no implementation costs to state or local governmental units. The Department of Economic

Development and the Division of Administration have adequate funding and staff to monitor and administer the Motion Picture Investor Tax Credit Program.

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

Film and video production activity in the state associated with the tax credit program has resulted in state and local tax receipts estimated at \$51.4 million over the 2002-2005 period (estimated by Economics Research Associates, 2007), with approximately 53.5% of these receipts or \$27.5 million received by state government and 46.5% or \$23.9 million received by local governments (shares estimated by the Legislative Fiscal Office, 2005). Production activity is expected to generate more than \$25 million per year of state and local tax receipts in subsequent years, growing by at least 5% per year.

Investor and Employment tax credits generated over the 2002-2005 period were \$232.8 million (data from the Governor's Office of Film and Television Development), and tax credits actually realized against state personal and corporate income taxes and state corporate franchise taxes during state fiscal years 2004-2006 were \$122.8 million (data from the Louisiana Department of Revenue). The current state official revenue forecast expects investor and employment tax credit realizations to be \$89 million in FY2007, growing to \$140 million in FY2011.

Infrastructure projects proposed so far could generate \$115 million of state tax receipts and \$100 million of local tax receipts over the construction periods of these projects (12 projects with \$2.4 billion of estimated total budgets reported by the Governor's Office of Film and Television Development; tax receipt estimates by the Legislative Fiscal Office). State income tax and corporate franchise tax credits associated with the proposed budgets of these projects are \$962 million. These credits would be granted only as expenditures on these projects occur and would be realized against state tax receipts over two – four year periods. It is uncertain at this time to what extent these proposed projects will actually be certified to participate in the program, to what extent these projects will actually occur, and what the total number and size of participating projects will be.

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

Film and video production activity in the state has resulted in compensation paid to workers directly employed by film productions in the state of \$140.3 million, over the 2002-2005 period (estimated by Economics Research Associates, 2007), with full-time equivalent employment now approximating 3,000 positions per year. Additional employment and earnings are also generated as a result of the industry's direct production activity.

Infrastructure projects proposed so far could result in as much as \$2.4 billion of construction and equipping activity in the state over the next few years. This activity will also generate earnings and employment over the periods of construction. It is uncertain at this time to what extent these proposed projects will actually be certified to participate in the program, to what extent these projects will actually occur, and what the total number and size of participating projects will be.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Louisiana has become a national leader in sites selected for motion picture projects. These proposed rules aim to maintain and improve Louisiana's attractiveness for motion picture projects. These projects will stimulate demand for a variety of

worker skills, and increase the amount of employment in the state.

Sherri McConnell
Director
0703#062

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District,
and State Accountability System
(LAC 28:LXXXIII.1301, 4313, 4903, and 4905)

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

- §1301 Reward Eligibility—changes one requirement for Exemplary Academic Growth to 2.0 points improvement in a Subgroup Assessment Index rather than growth in a Subgroup Performance Score;
- §4313 Corrective Actions—adds detail for how school districts that have been identified for District Improvement can exit Corrective Actions; and
- §4903 Local Superintendent and Board Responsibilities and §4905 Contracting and Employing a District Superintendent—both of these items concern District Academically in Crisis and together reflect the legislature's repeal of C and D only of R.S. 17:10.6, Act 687, Reg. Session 2006.

Title 28

EDUCATION

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

Chapter 13. Rewards/Recognition

§1301. Reward Eligibility

A. Beginning in 2004, a school shall receive recognition and monetary awards (as appropriated by the Legislature) when it achieves a growth label of Exemplary or Recognized Academic growth. Exemplary Academic Growth (EAG) shall require, in addition to achieving the school's Growth Target, at least 2.0 points growth in every subgroup's GPS (African American, American Indian/Alaskan Native, Asian, Hispanic, White, Economically Disadvantaged, Limited English Proficient, Students with Disabilities, and All Students), and the school cannot be in any level of school improvement. Recognized Academic Growth (RAG) is earned by any school that meets its growth target, regardless of subgroup growth or school improvement status.

Beginning in 2007, the Subgroup Performance Score (GPS) shall be replaced with an adjusted Subgroup Assessment Index (SAI). The SAI shall be calculated for two subgroups, the Economically Disadvantaged and the Students with Disabilities. For combination schools, the K-8 and 9-12 SAI (Subgroup Assessment Indices) will be combined using a weighted average of eligible test takers.

NOTE: As with the GPS, a minimum of 2.0 points of growth is required in each SAI for a school to qualify for Exemplary Academic Growth. Identification for School Improvement prevents consideration for EAG.

B. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2744 (December 2003), amended LR 30:1446 (July 2004), LR 31:1513 (July 2005), LR 33:

Chapter 43. District Accountability

§4313. Corrective Actions

A. - E. ...

F. Districts shall exit District Improvement if they pass Subgroup AYP in the same subject for which they entered District Improvement in the same cluster for 2 consecutive years.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2757 (December 2003), amended LR 30:1449 (July 2004), LR 31:424 (February 2005), LR 31:635 (March 2005), LR 31:1256 (July 2005), LR 33:

Chapter 49. School District Academically in Crisis

§4903. Local Superintendent and Board Responsibilities

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:543 (April 2006), repealed LR 33:

§4905. Contracting and Employing a District Superintendent

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:545 (April 2006), repealed LR 33:

Family Impact Statement

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

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

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

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

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

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

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

Interested persons may submit written comments until 4:30 p.m., May 9, 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 111—The Louisiana School, District, and State Accountability System

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

The changes to Bulletin 111 Chapter 1301 and 4313 provide needed definition, and clarify the Board of Elementary and Secondary Education's intent regarding processes already established in policy. Chapters 4903 and 4905 are removed to reflect the repeal of R.S. 17:10.6 (C) and (D) through Act 687 of the 2006 Regular Legislative Session. There are no estimated implementation costs (savings) to state or local governmental units as a result of these changes.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
0703#050

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 125—Standards for Educational Leaders in
Louisiana (LAC 28:CXXXVII.Chapters 1-5)

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 *Bulletin 125—Standards for Educational Leaders in Louisiana*. Bulletin 125 will be printed in codified format as Part CXXXVII of the Louisiana Administrative Code. The Standards for Educational Leaders in Louisiana were created to assist local education agencies in achieving the goals of the state's School and District Accountability System to place effective administrators at every school. Educational leaders are strongly encouraged to use the standards to examine organizational structures, examine their enacted roles, and examine day-to-day operations to ensure they are leading the way for school

success by keeping the focus on enhanced student achievement. In order to ensure that the goals of the state's accountability system are supported and achieved the Educational Leader Standards were created to guide and identify the knowledge, skills, performances, and dispositions of effective educational leaders. Based on current research the need for effective leadership at the school and district level has become increasingly important. Research has proven that effective leaders are an essential component in overall school improvement efforts.

**Title 28
EDUCATION**

**Part CXXXVII. Bulletin 125—Standards for
Educational Leaders in Louisiana**

Chapter 1. Purpose

§101. Introduction

A critical component to ensuring that the goals of the state's School and District Accountability System are achieved is the placement of effective administrators at every school. In order for this to be attained, attention must be focused on building leadership capacity at both the school and district levels. Utilizing the Standards for Educational Leaders, educational leaders are strongly encouraged to examine organizational structures, their enacted roles, and day-to-day operations to ensure they are leading the way for school success by keeping the focus on enhanced student achievement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17 and R.S.17:6(A)(10).

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

Chapter 3. Standards

§301. Standard #1 Vision

A. The educational leader engages the district/school community in developing and maintaining a student-centered vision for education which forms the basis for district/school goals and guides the preparation of students as effective, lifelong learners in a pluralistic society.

1. Knowledge and Skills

a. The educational leader has knowledge, skills, and understanding of a "preferred" future regarding the success of all students:

i. group process strategies for melding the diverse values and expectations of the district/school community into a shared understanding of desired student outcomes;

ii. theories of child and human development, the teaching-learning, and models of and best practices for on-going district/school improvement; and

iii. relevant research findings and strategies for using data to develop and maintain the district/school vision.

2. Disposition

a. The educational leader believes in, values, and commits to:

i. a focused mission/vision to improve student achievement and a vision of the elements of school, curriculum, and instructional practices that make higher achievement possible;

ii. the centrality of students to the district/school vision and goals;

iii. involving the community in establishing the district/school vision and goals;

iv. respecting the existing community cultures while working for changes that improve outcomes for all students;

v. stewardship of the district/school vision, and sponsorship of district/school goals; and

vi. enabling students to think critically about complex issues.

3. Performances

a. The educational leader demonstrates the ability to:

i. work collaboratively with the school community to establish clear goals and to keep those goals in the forefront of the school's attention;

ii. bring the district/school vision to life by using it to guide decision making about students and the instructional programs;

iii. maintain focus on developing learning experiences that will enable students to prosper in subsequent grades and as adults;

iv. maintain open communication with the community, and effectively convey high expectations for student learning to the community;

v. inspire and lead new and challenging innovations by providing opportunities and support for collaboration, the exchange of ideas, experimentation with innovative teaching strategies, and ongoing district/ school improvement;

vi. monitor, assess, and revise the district/school vision and goals as needed; and

vii. foster the integration of students into mainstream society while valuing diversity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17 and R.S.17:6(A)(10).

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

§303. Standard #2 Teaching and Learning

A. The educational leader uses a knowledge of teaching and learning in working collaboratively with the district/school faculty and staff to implement effective and innovative teaching practices which engage students in meaningful and challenging learning experiences.

1. Knowledge and Skills

a. The educational leader has knowledge, skills, and understanding of:

i. research and theories related to teaching, learning, curriculum development and integration, and motivation;

ii. methods for effectively communicating high expectations for all students to learn high-level content;

iii. effective instructional practices that motivate and increase student achievement;

iv. supervisory and observational techniques that promote effective teaching and learning in a growth-oriented environment;

v. authentic, psychometrically sound methods for assessing student learning; and

vi. emerging technologies and their use in enhancing student learning.

2. Dispositions

a. The educational leader believes in, values, and commits to:

i. all children's learning at high levels,

- ii. excellence and life-long learning,
- iii. collaborative development of teaching strategies and curricular modifications that ground student learning in real-world situations and promote critical thinking; and
- iv. developing a caring environment that nurtures teaching and learning.

3. Performances

- a. The educational leader demonstrates the ability to:
 - i. design, model, and implement effective curriculum, instruction, and assessment practices;
 - ii. encourage and support the use of both innovative, research-based teaching strategies to engage students actively in solving complex problems and methods of student assessment which will enhance learning for all students;
 - iii. conduct frequent classroom/school visits and periodic observations, provide constructive feedback to faculty and staff, and suggest models of effective teaching techniques when needed;
 - iv. foster a caring, growth-oriented environment for faculty and students, one in which high expectations and high standards for student achievement are emphasized; and
 - v. promote collaboration and team building among faculty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17 and R.S.17:6(A)(10).

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

§305. Standard #3 School Management

A. The educational leader promotes the success of all students by ensuring management of the organization, operations, and resources for a safe and orderly learning environment.

1. Knowledge and Skills

- a. The educational leader has knowledge, skills, and understanding of:
 - i. organizational theory and principles of organizational development;
 - ii. human resources management and development, including related/support/ancillary services;
 - iii. local, state, and federal laws, policies, regulations, and procedures;
 - iv. sound fiscal procedures and practices;
 - v. time management to maximize the effectiveness of the organization; and
 - vi. current technologies that support management functions.

2. Dispositions

- a. The educational leader believes in, values, and commits to:
 - i. creating a learning community who believes that every student counts and has the support of a caring adult;
 - ii. building a safe, orderly environment;
 - iii. upholding local, state, and federal laws, policies, regulations, and procedures, including being fiscally responsible and ensuring quality support services;
 - iv. upholding high standards in the day-to-day operations of the school and using current technology;
 - v. making management decisions to enhance teaching and learning; and

- vi. involving members of the school community in shared decision-making processes.

3. Performances

- a. The educational leader demonstrates the ability to:
 - i. establish and implement a set of standard operating procedures and routines;
 - ii. understand the change process and have the leadership and facilitation skills to manage it effectively;
 - iii. organize and use time in innovative ways to meet the goals and objectives of school improvement;
 - iv. maintain safe, secure, clean, and aesthetically pleasing physical school plants;
 - v. maintain a positive learning environment where proper student discipline is the norm;
 - vi. manage fiscal resources responsibly, efficiently, and effectively and monitor whether others do so as well;
 - vii. manage human resources responsibly by selecting and inducting new personnel appropriately, assigning and evaluating all staff effectively, and taking other appropriate steps to build an effective faculty/staff;
 - viii. monitor support services such as transportation, food, health, and extended care responsibly;
 - ix. provide and coordinate appropriate co-curricular and extra-curricular activities;
 - x. use shared decision making effectively in the management of district/school operations;
 - xi. manage time and delegate appropriate administrative tasks to maximize attainment of the district/school goals;
 - xii. use available technology effectively to manage operations; and
 - xiii. monitor and evaluate operations and use feedback appropriately to enhance effectiveness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17 and R.S.17:6(A)(10).

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

§307. Standard #4 School Improvement

A. The educational leader works with the district/school community to review data from multiple sources to establish challenging standards, monitor progress, and foster the continuous growth of all students.

1. Knowledge and Skills

- a. The educational leader has knowledge, skills, and understanding of:
 - i. methods by which information from various data sources can be used to establish challenging standards for self, faculty, students, and the district/school community;
 - ii. strategies for monitoring progress toward reaching the standards established;
 - iii. research-based literature related to teaching, learning, curriculum, organizational and staff development, and change processes;
 - iv. the district/school culture, community expectations, and the strengths and weaknesses of self, faculty, students, and community; and
 - v. methods of data collection, analysis, interpretation, and program evaluation.

2. Dispositions

- a. The educational leader believes in, values, and commits to:

i. empowering others by engaging in collaborative problem solving and decision making, building capacity through staff development, and encouraging divergent perspectives from the district/school community;

ii. working toward consensus and compromise among members of the district/school community, guided by the district/school vision and goals;

iii. examining one's own assumptions, practices, and beliefs in the light of new knowledge;

iv. accepting limitations and mistakes from self and others while maintaining commitment to the standards established;

v. encouraging faculty experimentation in order to maximize opportunities for all students to learn;

vi. promoting a district/school culture that values and promotes individual and collaborative reflection and learning; and

vii. recognizing and celebrating school accomplishments and acknowledging failures.

3. Performances

a. The educational leader demonstrates the ability to:

i. keep everyone informed and focused on student achievement;

ii. use data to initiate and continue improvement in student achievement;

iii. provide ongoing opportunities for staff to reflect on their roles and practices in light of student standards and district/school goals;

iv. grow professionally by engaging in professional development activities and making such activities available to others;

v. use research findings to plan district/school improvement initiatives, monitor the implementation of these changes, and evaluate their effectiveness on teaching and learning;

vi. foster the genuine continuous involvement and commitment of the district/school community in promoting the progress of all students toward attaining high standards;

vii. enhance school effectiveness through the coordination of teacher selection, induction, evaluation, and professional development;

AUTHORITY NOTE: Promulgated in accordance with R.S. 17 and R.S.17:6(A)(10).

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

§309. Standard #5 Professional Development

A. The educational leader works collaboratively with the district/school faculty and staff to plan and implement professional development activities that promote both individual and organizational growth and lead to improved teaching and learning.

1. Knowledge and Skills

a. The educational leader has knowledge, skills, and understanding of:

i. theories related to motivation, adult learning, and staff development;

ii. sound pedagogical practices and emerging technologies;

iii. current trends in terms of social, political and cultural influences on education;

iv. research, measurement, and assessment strategies;

v. organizational learning for district/school cultures, goal setting, change processes, and group dynamics; and

vi. resource management.

2. Dispositions

a. The educational leader believes in, values, and commits to:

i. lifelong learning for self and others;

ii. ongoing change processes;

iii. faculty expertise and collaborative work strategies; and

iv. fostering creativity and establishing high expectations in self and others.

3. Performances

a. The educational leader demonstrates the ability to:

i. communicate a focused vision for both district/school and individual professional growth;

ii. use research and data from multiple sources to design and implement professional development activities;

iii. secure the necessary resources for meaningful professional growth, including the time for planning and the use of emerging technologies;

iv. ensure that faculty and staff are aware of the most current theories and practices and makes the discussion of these a regular aspect of the district's/school's culture;

v. provide opportunities for individual and collaborative professional development;

vi. provide incentives for learning and growth and encourage participation in professional development activities at the national, state, and parish levels; and

vii. assess the overall impact of professional development activities on the improvement of teaching and student learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17 and R.S.17:6(A)(10).

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

§311. Standard #6 School-Community Relations

A. The educational leader uses an understanding of the culture of the community to create and sustain mutually supportive school-community relations.

1. Knowledge and Skills

a. The educational leader has knowledge, skills, and understanding of:

i. the composition of the district/school community including relevant demographic statistics and trends, competing issues and values, and available resources;

ii. successful strategies for establishing positive district/school community relations and fostering parental and community participation;

iii. techniques for promoting the positive aspects of the district/school and communicating with the media effectively; and

iv. effective interpersonal communication skills.

2. Dispositions

a. The educational leader believes in, values, and commits to:

i. establishing a partnership with the community for mutually supportive relationships;

ii. promoting the school/school system as an integral part of the community;

- iii. diversity as a strength; and
- iv. promoting the positive aspects of the district/school, celebrating successes, acknowledging the district's/school's shortcomings, and involving the community in overcoming problems within the district/school.

3. Performances

- a. The educational leader demonstrates the ability to:
 - i. foster shared beliefs and an sense of community and cooperation;
 - ii. be visible and involved in the community and treat members of the district/school community equitably;
 - iii. involve the school(s) in the community while keeping all stakeholders informed;
 - iv. use district-/school-community resources to enhance the quality of instructional programs, including those resources available through business and industry;
 - v. recognize and celebrate educational successes publicly; and
 - vi. communicate effectively, both interpersonally and through the media.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17 and R.S.17:6(A)(10).

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

§313. Standard #7 Professional Ethics

A. The educational leader demonstrates honesty, integrity, and fairness to guide district/school programs in an ethical manner.

1. Knowledge and Skills

- a. The educational leader has knowledge, skills, and understanding of:
 - i. various perspectives on ethics;
 - ii. his/her own principled convictions about what is best for students and the ethical implications of those convictions;
 - iii. relevant laws, policies, regulations, procedures and the relationship of these to protecting the rights of individuals; and
 - iv. ethical means for improving district/school programs.

2. Dispositions

- a. The educational leader believes in, values, and commits to:
 - i. being accurate in providing information while respecting the rights of others;
 - ii. caring for the feelings of others;
 - iii. principled action in upholding the substance of laws, policies, regulations, and procedures; and
 - iv. using the influence of his/her leadership constructively and productively in the service of all students.

3. Performances

- a. The educational leader demonstrates the ability to:
 - i. model ethical behavior at both the school and community levels;
 - ii. communicate to others expectations of ethical behavior;
 - iii. respect the rights and dignity of others;
 - iv. provide accurate information without distortion and without violating the rights of others;

- v. develop a caring school environment in collaboration with the faculty and staff;
- vi. apply laws, policies, regulations, and procedures fairly, consistently, wisely, and compassionately;
- vii. minimize bias in self and others and accept responsibility for his own decisions and actions; and
- viii. address unethical behavior in self and others.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17 and R.S.17:6(A)(10).

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

Chapter 5. Glossary

§501. Definitions

Preferred Future—an understanding and conviction conveyed to teachers and students that opportunities available to students are not limited.

Psychometrically Sound—data that are valid and reliable; refers to data from tests and other forms of assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17: and R.S.17: 6(A)(10) .

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

Family Impact Statement

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

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

Interested persons may submit written comments until 4:30 p.m., May 9, 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 125—Standards for
Educational Leaders in Louisiana**

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

Bulletin 125 contains the Standards for Educational Leaders in Louisiana policy. The standards were created to assist Local Education Agencies in achieving the goals of the state's School and District Accountability System to place effective administrators at every school. The adoption of this

policy will cost the Department of Education approximately \$408 (printing) 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
Deputy Superintendent
0703#028

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
(LAC 28:CXXXI.314)

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*: §314. Extended Endorsement License (EEL). This policy allows for the issuance of an Extended Endorsement License (EEL) to individuals who hold standard Louisiana teaching certificates (Level 1, Level 2, Level 3, Type C, Type B, Type A, or Out-of-State), pass the current PRAXIS content exam(s) required for the area in which the EEL is requested, and present detailed prescriptions that identify any additional coursework and/or exams needed to complete requirements for the area/level certification endorsement. The EEL could be renewed annually, upon completion of renewal requirements, for a maximum of three years. This license will ensure that individuals teaching in core content areas have fulfilled highly qualified requirements by passing content area examination(s) of PRAXIS.

Title 28

EDUCATION

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

Chapter 3. Teaching Authorizations and Certifications

§314. Extended Endorsement License (EEL)

A. Extended Endorsement License (EEL)—issued for one school year, renewable annually, and may be held a maximum of three years while the holder pursues certification in the content area of the license.

B. Eligibility Requirements—issued to an individual who meets the following requirements:

1. the individual holds a valid Louisiana teaching certificate of one of the following types: Level 1, Level 2, Level 3, Type A, Type B, Type C, OS; and

2. the individual has passed the current content area exam(s) appropriate for the content area in which the Extended Endorsement License is being requested; and,

3. the individual provides a detailed prescription that identifies any additional coursework or exams needed to complete the area/level certification endorsement and that is signed by the superintendent and the human resources director of the employing local education agency.

C. Renewal Requirements. Teacher must successfully complete a minimum of nine credit hours of coursework per year, applicable toward certification in the content area of the license.

1. If fewer than nine hours are required to complete the certification, then all of the remaining hours must be taken.

2. If no credit hours remain to be taken, then the individual must provide evidence of taking the required exams, a minimum of once per year.

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

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

Family Impact Statement

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

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

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

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

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

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

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

Interested persons may submit written comments until 4:30 p.m., May 9, 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

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

This policy allows for the issuance of an Extended Endorsement License (EEL) to individuals who hold standard Louisiana teaching certificates (Level 1, Level 2, Level 3, Type C, Type B, Type A, or Out-of-State), pass the current Praxis content exam(s) required for the area in which the EEL is requested, and present detailed prescriptions that identify any additional coursework and/or exams needed to complete requirements for the area/level certification endorsement. The

EEL could be renewed annually, upon completion of renewal requirements, for a maximum of three years. 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 Director
0703#029

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

**Scholarship/Grant Programs—Definitions and
Post Secondary Institutions Responsibilities
(LAC 28:IV:301 and 1903)**

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

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. (SG0782NI)

**Title 28
EDUCATION**

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

Chapter 3. Definitions

§301. Definitions

A. ...

* * *

First-Time Freshman—a student who is awarded TOPS opportunity, performance, or honors and enrolls for the first-time as a full-time freshman in an academic program in a post-secondary school subsequent to high school graduation, and is enrolled full-time at the end of the 14th class day or later (9th class day or later for Louisiana Tech) or enrolls for the first time, full-time in a Louisiana public community or technical college that offers a Vocational or Technical Education Certificate or Diploma Program or a non-academic undergraduate degree to pursue a skill, occupational training, or technical training subsequent to high school graduation, and is enrolled full-time at the end of the 14th class day or later (9th class day or later for term and quarter institutions). A student who is awarded TOPS opportunity, performance, or honors and begins in an academic program in a post-secondary college or university in a summer session will be considered a first-time freshman for the immediately succeeding fall term. A student who is awarded TOPS opportunity, performance, or honors and

begins in a non-academic program in a post-secondary school in a summer term will be considered a first-time freshman at the time of such enrollment. The fact that a student enrolls in a post-secondary school prior to graduation from high school and/or enrolls less than full time in a post-secondary school prior to the required date for full time enrollment shall not preclude the student from being a first-time freshman.

* * *

Full-Time Student—

a. a student enrolled in an institution of higher education who is carrying a full-time academic workload as determined by the school under the standards applicable to all students enrolled;

b. for continuation purposes, a student must be enrolled full-time at the end of the 14th class day or later at a semester school or the 9th class day or later at a quarter or term school;

c. for continuation purposes, a student is considered to have met the full-time requirement if by the completion of the academic year he has earned at least 24 hours of total credit as reported by the institution for the fall and spring semesters at institutions defining 12 semester hours as the minimum for standing as a full-time undergraduate or as reported by the institution for the fall, winter and spring quarters at institutions defining eight quarter hours as the minimum for standing as a full-time undergraduate. For purposes of TOPS and except where specified otherwise within these rules, a student shall be credited for hours earned as reported by the institution which the student attends in accordance with that institution's published policies. Students should be aware that these policies may differ depending on the school the student attends (see §§705.A, 705.D, 805.A, and 907.A for more expanded TOPS requirements);

d. for programs which permit graduate study, a graduate student must have earned at least 18 hours of total credit during the fall, winter and spring terms;

e. a student enrolled in two or more institutions of higher education when such multiple enrollment is necessary for the student to gain access to the courses required for completion of the degree in the chosen discipline and where the total number of hours earned at all institutions during the academic year is the equivalent of carrying a full-time academic workload as determined by the institution which will award the degree;

f. correspondence courses may not be used to establish full time status.

* * *

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), repromulgated LR 27:1842 (November 2001), amended LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330,

2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:

Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions

§1903. Responsibilities of Post-Secondary Institutions

A. - B.1. ...

2. institutions will bill LASFAC based on their certification that the recipient of a TOPS Award or a GO-Youth Challenge Program Grant is enrolled full-time, as defined in §301, at the end of the 14th class day or later for semester schools and the 9th class day or later for quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the full summer session. Institutions shall not bill for students who are enrolled less than full-time at the end of the 14th class day for semester schools or the 9th class day for quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the summer session, unless the student qualifies for payment for less than full-time enrollment as defined in §2103.C. Students failing to meet the full-time enrollment requirement are responsible for reimbursing the institution for any awards received. Refunds of awards to students who are not receiving federal Title IV aid, for less than full-time enrollment after the 14th or 9th class day, as applicable, shall be returned to the state. Refunds to students who are receiving federal Title IV aid shall be refunded to the state in accordance with the institution's federal Title IV aid refund procedures;

B.3. - G. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:3111 and 3114 (December 2005), LR 33:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., April 9, 2007, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant
Programs—Definitions and Post
Secondary Institutions Responsibilities**

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

The proposed change affects only a small number of students who are already eligible for a TOPS award and the change will not have a significant impact on TOPS expenditures.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

George Badge Eldredge
General Counsel
0703#011

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Expedited Permit Processing Program
(LAC 33:I.1801, 1803, 1805, 1807, and 1809)(OS073)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.1801, 1803, 1805, 1807, and 1809 (Log #OS073).

This Rule provides for an expedited permit processing program and the implementation of the associated permitting fees authorized by Acts 586 and 779 of the 2006 Regular Session of the Louisiana Legislature. This program allows interested applicants who request such processing to reimburse the department for overtime costs incurred by department employees who work overtime to expedite an application for a permit, modification, license, registration, or variance. The statutes also allow the department to hire contractors to perform this work if deemed necessary. Many companies consider environmental permitting timelines when determining where to locate a proposed facility. Expedited permit processing allows the regulated community to act more quickly in response to market demands and conditions. Commencement of any necessary construction and operations may be authorized more expeditiously. This Rule promulgates the provisions of Emergency Rule OS073E, which implemented a pilot program for this service on July 31, 2006. The basis and rationale for this Rule are to shorten the permit processing time by allowing the department to offer paid overtime to employees to expedite the permit processing and recoup the costs of that overtime pay.

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

Title 33
ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 18. Expedited Permit Processing Program

§1801. Scope

A. This Chapter establishes a program to expedite the processing of permits, modifications, licenses, registrations, or variances for environmental permit applicants who may request such services. Expedited processing of an application for a permit, modification, license, registration, or variance is an exercise of the discretion of the administrative authority and is subject to the availability of resources needed in order to process the permit, modification, license, registration, or variance. Permit actions approved for expedited permit processing must meet all regulatory requirements, including required public comment periods and any required review by other agencies.

B. Eligibility

1. An application for an initial permit or permit modification necessary for new construction as required by the Environmental Quality Act or regulation is eligible for expedited permit processing.

2. An application for permit modification that does not result in new permanent jobs is eligible for expedited processing pursuant to the provisions of this Chapter if it is associated with new construction; includes increases in production that benefit the national, state, or local economy; or provides a direct benefit to the environment.

3. Applications for permit renewal and/or reconciliation will be considered for expedited processing pursuant to the provisions of this Chapter on a case-by-case basis.

4. Applications for permits, modifications, licenses, registrations, or variances under the Solid Waste and Hazardous Waste programs are not eligible for expedited permit processing.

5. A request for expedited permit processing submitted prior to submittal of the associated permit application will not be considered.

6. Requests for exemptions, letters of no objection, and other miscellaneous letters of response are not eligible for expedited permit processing.

C. To the extent practicable, requests proposing new construction and requests that will result in the creation of new permanent jobs will be given highest consideration.

D. Approval of a request for expedited permit processing in no way guarantees issuance of the permit action or issuance of the permit action by the date requested.

E. The department may deny a request for expedited permit processing for any reason, including but not limited to the following:

1. the applicant's failure to pay outstanding fees or penalties;
2. compliance history concerns regarding the applicant;
3. an infeasible date requested for permit action;
4. an insufficient maximum amount the applicant is willing to pay; or
5. insufficient workforce resources available to assign to the task or a request not in line with department priorities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.5

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§1803. Procedures

A. Requests for expedited permit processing shall be submitted using the approved form. The approved form is available on the official website for the department. Hard copies may be obtained from the Office of Environmental Services, Environmental Assistance Division.

B. Within 10 working days after receipt of a request for expedited processing of any permit, modification, license, registration, or variance, the administrative authority shall issue a decision to grant or deny the expedited processing request.

C. Permit Applications. The following are additional permit application requirements for facilities requesting expedited permit processing.

1. If requested by the department, the applicant shall submit permit application information electronically using the Air Permit Data Upload (APDU) system or any other electronic data submittal program provided by the department.

2. Prior to submittal of a permit application for a new major source, a new synthetic minor source, or a major modification of an existing source, a technical meeting with a representative of the department is recommended to review and discuss the proposed application.

D. Requests for Additional Information

1. If at any time during the review process of an application the administrative authority determines that additional information is necessary, the administrative authority shall notify the applicant and require a response from the applicant within a specified time.

2. The applicant shall respond to the request for additional information within the time specified by the administrative authority. Such a response shall contain all information required by the administrative authority.

3. The administrative authority may cease expedited processing of an application for a permit, modification, license, registration, or variance in accordance with the provisions of this Chapter if the applicant fails to supply the requested additional information by the specified time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.5.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§1805. Fees

A. In addition to the fees charged pursuant to R.S. 30:2014, a fee shall be charged for each application for a permit, modification, license, registration, or variance that is processed on an expedited basis in accordance with the provisions of this Chapter.

1. An appropriate fee shall be computed based on the maximum per hour overtime salary, including associated related benefits, of the civil service employee of the department who performs the work.

2. The fee shall be computed by multiplying the salary figure from Paragraph A.1 of this Section by every overtime hour or portion thereof that a department employee or

contractor works on expedited processing of the application for a permit, modification, license, registration, or variance.

3. The applicant may request that the expedited permit processing fee not exceed a maximum amount. If such a maximum amount is established, the number of overtime hours a department employee or contractor works processing the application for a permit, modification, license, registration, or variance shall be limited accordingly. If further processing of the application is required, the department's continued review will not follow the provisions of this Chapter, and the request will no longer be handled on an expedited basis, unless the applicant agrees in writing to pay the expedited fees required to complete the expedited processing of the permit action.

B. In the event that the administrative authority ceases processing an application for a permit, modification, license, registration, or variance in accordance with LAC 33:I.1803.D.3 or Paragraph A.3 of this Section, a fee will be charged for every overtime hour or portion thereof that a department employee or contractor worked on expedited processing of the subject application for a permit, modification, license, registration, or variance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.5 and 6.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§1807. Invoicing and Failure to Pay

A. An invoice for the expedited permit processing fee shall be transmitted to the applicant after the administrative authority has made a decision to grant or deny the permit, modification, license, registration, or variance.

B. If the administrative authority has ceased processing the permit application in accordance with LAC 33:I.1803.D.3 or 1805.A.3, an invoice for the appropriate expedited permit processing fee shall be transmitted to the applicant.

C. Failure to pay the expedited permit processing fee by the due date specified on the invoice constitutes a violation of these regulations and shall subject the applicant to relevant enforcement action under the Louisiana Environmental Quality Act including, but not limited to, revocation or suspension of the permit, modification, license, registration, or variance.

D. A permit appeal, whether by the applicant or a third party, shall not stay the requirement to pay the expedited permit processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.5 and 6.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§1809. Public Notice and Availability of Records

A. Requirement to Provide Public Notice. The department shall provide notice of each request for expedited processing of an application for a permit, modification, license, registration, or variance that is processed pursuant to the provisions of this Chapter.

1. The notice of expedited permit processing shall be provided on the official website for the department.

2. For draft or proposed permit actions subject to public notice requirements under other regulations or program requirements, such public notice shall indicate that the draft or proposed permit was processed under the expedited permit processing provisions of this Chapter.

B. Contents of the Notice

1. The notice on the official website for the department shall contain the name of the applicant/permittee, the agency interest number, the parish in which the facility is physically located, the environmental medium involved, the date the request for expedited processing was received, and the date of the decision to approve or deny the request for expedited processing.

2. For draft or proposed permit actions subject to public notice requirements under other regulations or program requirements, in addition to such requirements, the public notice shall contain a statement that the draft or proposed permit was processed under the expedited permit processing provisions of this Chapter.

C. Availability of Records. All recorded information concerning a request for expedited processing (completed permit application form, fact sheet or statement of basis, draft and proposed permits, or any other public document) not classified as confidential information under R.S. 30:2030(A) or 30:2074(D) or not designated confidential in accordance with applicable regulations shall be made available to the public for inspection and copying in accordance with the Public Records Act, R.S. 44:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.5.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on April 25, 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 OS073. Such comments must be received no later than May 2, 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. 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 OS073. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall

Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Expedited Permit Processing Program**

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

There are additional administrative duties associated with implementing the expedited permit processing program. Annual administrative costs are estimated to be \$53,760.47.

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

This rule allows LDEQ to charge a separate fee for each permit, modification, license, registration, or variance that is processed on an expedited basis. Because all revenue generated will be used to compensate the employee or contractor for the services performed, there will be no net increase in revenues in excess of expenditures associated with the proposed action.

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

Participation in the Expedited Permit Processing Program is voluntary. The applicant must complete a brief "Request for Expedited Permit Processing" form and pay a fee in addition to those charged pursuant to R.S. 30:2014. The fee will be based on the actual number of overtime hours an employee works (or hours a contractor works) to process the application, which will be highly dependent on the size and complexity of the project. The applicant may, however, request that the expedited permit processing fee not exceed a maximum amount.

Expedited permit processing allows the regulated community to act more quickly in response to market demands and conditions. Commencement of any necessary construction and operations may be authorized more expeditiously. As such, the revenue generated by the project would also be realized sooner.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment in the public or private sectors. A final decision on each application must still adhere to the statutory deadlines imposed by R.S. 30:2022(B) and other applicable regulations, regardless of whether or not it is processed on an "expedited" basis.

Herman Robinson, CPM
Executive Counsel
0703#082

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Murphy Exploration and Production Delisting
(LAC 33:V.4999.Appendix E)(HW096P)

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 #HW096P).

Murphy Exploration and Production (Murphy) is petitioning to exclude from the hazardous waste regulations (delist) approximately 6,120 tons of incinerator ash generated and used as fill in 1986 and 1987. This is a one-time delisting that applies to the particular ash (and to any contaminated media associated therewith) used as fill in the Rim Tide barge slip located on a 1.83 acre tract of land near Amelia, Louisiana. The purpose of this delisting petition is to facilitate the excavation and offsite disposal of the ash and any associated contaminated media. 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 department has reviewed Murphy's petition and found that it satisfies the delisting requirements in LAC 33:V.105.M. 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. The department's proposed action to grant the petition is based on an evaluation of waste-specific information provided by the petitioner. Based on the information submitted by Murphy, the results of the analytical data, and the results of the DRAS, the department has determined that the nature of this material does not warrant retaining the material as a hazardous waste. The basis and rationale for this proposed rule are to grant the delisting petition based on an evaluation of waste-specific information submitted by Murphy Exploration and Production.

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 A. – Appendix D. ...
- Appendix E. Wastes Excluded under LAC 33:V.105.M**
- A. - B.3.b. ...

Table 1 - Wastes Excluded
[See Prior Text in Dupont Dow Elastomers, LLC, LaPlace, LA – BFI Waste Systems of Louisiana, LLC, Colonial Landfill, Sorrento, LA, (4)]

Table 1 - Wastes Excluded
Murphy Exploration and Production Company, Amelia, LA
Hazardous waste incinerator ash was generated by the combustion of hazardous wastes and nonhazardous wastes in a rotary kiln incinerator at Marine Shale Processors in Amelia, Louisiana. In 1986 and 1987, this ash was used as fill material for the Rim Tide barge slip area at Murphy Exploration and Production Company (Murphy) in Amelia, Louisiana. For the purpose of this exclusion, ash used as fill material by Murphy includes all hazardous waste codes listed in LAC 33:V.4901. This is a one-time exclusion for a maximum volume of 6,200 cubic yards of ash subsequent to its excavation from the Rim Tide barge slip area at Murphy for the purpose of transportation and disposal in a Subtitle D landfill after [INSERT DATE OF PROMULGATION].

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), LR 29:1084 (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 33:445 (March 2007), LR 33:

A public hearing will be held on April 25, 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 HW096P. Such comments must be received no later than May 2, 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. 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 HW096P. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Murphy Exploration and Production Delisting**

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 for implementing this rule.

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

Under current rules and regulations, the state would collect on a one-time basis approximately \$244,800 in hazardous waste tax revenue from the imposition of the \$40 per dry weight ton tax on an estimated 6,120 tons of waste at the Rim Tide slip area near Amelia, Louisiana. The proposed rule would delist this waste and would alternatively provide that it be taxed

at the rate for solid waste of \$4 per dry weight ton, which would result in tax revenue of approximately \$24,500, or a net one-time decrease in revenue of \$220,300. Monies generated by the hazardous waste tax are paid into the Hazardous Waste Site Cleanup Fund until the fund balance reaches \$6 million, and at such time the treasurer pays the remaining sums into the Environmental Trust Fund. Solid Waste fees are directly deposited into the Environmental Trust Fund.

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

Assuming that the delisting petition is granted, Murphy will proceed with the remediation of the Rim Tide slip area. This will produce both environmental and economic benefits for the state. The economic benefits to the directly affected parties will be the restoration of 1.83 acres of property to full use, and the savings of unnecessary expenditures of as much as \$2.5 million for Murphy. The remediation work is expected to cost approximately \$650,000 if the petition is granted, which will benefit various Louisiana companies who will participate in the remediation project, and save Murphy approximately \$1.85 million. The remediation of the 1.83 acres will allow industrial property in St. Mary Parish to be more fully utilized. The delisting will also avoid the unnecessary use of hazardous waste landfill space for nonhazardous wastes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effects on competition are negligible. The delisting facilitates the remediation of materials that were placed on this location approximately 20 years ago. The remediation activities at the 1.83 acres will involve short-term environmental, laboratory, and construction related employment.

Herman Robinson, CPM
Executive Counsel
0703#081

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Recycling Tax Credit (LAC 33:VII.10401, 10403,
10405, 10407, 10409, 10411, 10413, and 10415)(SW043)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste regulations, LAC 33:VII.10401, 10403, 10405, 10407, 10409, 10411, 10413, 10415 (Log #SW043).

This Rule establishes the technical requirements to qualify for the recycling tax credit for new recycling manufacturing or process equipment and service contracts outlined in Act 319 of the 2005 Regular Session of the Louisiana Legislature. The Rule requires a person wishing to take advantage of the tax credit to submit an application to DEQ for review, and provides guidance on which equipment and/or service contracts will be considered for the tax credit. The regulations require DEQ to review the application to determine if the equipment and/or service contract meet the requirements for the credit. DEQ then certifies the application and forwards the recommendation to the Department of Revenue. The basis and rationale for this

proposed Rule are to implement Act 319 of the 2005 Legislative Session.

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

Title 33
ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 2. Recycling

Chapter 104. Credit for New Recycling Manufacturing or Process Equipment and/or Service Contracts

§10401. Authority

A. These regulations are hereby established by the Department of Environmental Quality (DEQ) in consultation with the Louisiana Department of Revenue (LDR) as mandated by Act 319 of the 2005 Regular Session of the Louisiana Legislature. These regulations are to establish technical specifications and certification requirements for the qualification of new recycling manufacturing or process equipment and/or service contracts for the credit against income and corporate franchise taxes provided by R.S. 47:6005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§10403. Applicability

A. These regulations apply to taxpayers who purchase *qualified new recycling manufacturing or process equipment* and/or *qualified service contracts*, as defined in LAC 33:VII.10405 and R.S. 47:6005, and who apply for tax credit pursuant to R.S. 47:6005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§10405. Definitions

A. For the purpose of this Chapter the terms below shall have the meaning specified herein as follows.

Beneficial Use—the use of waste material for some profitable purpose (e.g., incorporating sludge into soil to amend the soil). Avoidance of processing or disposal cost alone does not constitute beneficial use.

Conventional Disposal—the disposal as waste in a cell at a landfill. It shall not include any application specifically approved by the department as a beneficial use (e.g., alternate daily cover).

Industrial Solid Waste—solid waste generated by a manufacturing, industrial, or mining process, or which is contaminated by solid waste generated by such a process. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products; byproducts; inorganic chemicals; iron and steel manufacturing; leather and leather products;

nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; and transportation equipment. This term shall not include hazardous waste regulated under the Louisiana hazardous waste regulations or under federal law, or waste which is subject to regulation under the Office of Conservation's Statewide Order No. 29-B or by other agencies.

* * *

Process—a method or technique, including recycling, recovering, compacting (but not including compacting that occurs solely within a transportation vehicle), composting, incinerating, shredding, baling, recovering resources, pyrolyzing, or any other method or technique designed to change the physical, chemical, or biological character or composition of a solid waste to render it safer for transport, reduced in volume, or amenable for recovery, storage, reshipment, or resale. The definition of *process* shall not include treatment of wastewaters to meet state or federal wastewater discharge permit limits. Neither shall the definition include activities of an industrial generator to simply separate wastes from the manufacturing process.

Qualified New Recycling Manufacturing or Process Equipment—new machinery or new apparatus used exclusively to process post-consumer waste material, recovered material, or both, and manufacturing machinery used exclusively to produce finished products, the composition of which is at least 50 percent post-consumer waste material, recovered material, or both. For purposes of this Chapter, *qualified new recycling manufacturing or process equipment* shall not include vehicles, structures, machinery, equipment, or devices used to store or incinerate waste material, or construction equipment or farm equipment used in the process.

Qualified Recycling Equipment—repealed.

Qualified Service Contract—any service contract utilized by a nonhazardous industrial waste generator or a nonhazardous industrial waste beneficial user to implement Department of Environmental Quality-approved beneficial use programs for nonhazardous industrial waste streams as defined under the department's solid waste rules and regulations so as to avoid conventional disposal of such waste in a landfill.

Recovered Material—*recovered materials* as defined in R.S. 30:2412 and which would otherwise be processed or disposed of as nonhazardous solid waste.

* * *

Solid Waste—any garbage, refuse, or sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. *Solid waste* shall not include solid or dissolved material in domestic sewage; solid or dissolved materials in irrigation-return flows; industrial discharges that are point sources subject to permits under R.S. 30:2075; source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (68 Stat. 923 et seq.), as amended; or hazardous waste subject to permits under R.S. 30:2171 et seq.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), repromulgated LR 18:960 (September 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§10407. Technical Specifications for Qualified New Recycling Manufacturing or Process Equipment and/or Service Contracts

A. In order to qualify for certification as qualified new recycling manufacturing or process equipment and/or a qualified service contract, the equipment and/or service contract must utilize new apparatus used exclusively to process post-consumer waste material and/or involve the processing of post-consumer waste material in a Department of Environmental Quality-approved beneficial use program for nonhazardous industrial solid waste and meet the following requirements:

1. be new machinery or new apparatus used exclusively to process post-consumer waste material, recovered material, or both; or
2. be new manufacturing machinery used exclusively to produce finished products, the composition of which is at least 50 percent post-consumer waste material, recovered material, or both; and/or
3. be a service contract associated with the construction and/or operation of new recycling manufacturing or process equipment implementing a Department of Environmental Quality-approved beneficial use program for industrial solid waste; and/or
4. be an in-kind replacement or new apparatus that results in a greater than 25 percent increase in beneficial use of post-consumer waste material, recovered material, or both, that is a part of a previously-approved certification under these regulations; and
5. be used exclusively in the state of Louisiana.

B. The following categories of equipment, and any associated service contracts, will be excluded from certification as qualified new recycling manufacturing or process equipment and/or qualified service contracts:

1. a *vehicle*, as defined in LAC 33:VII.10405, or any service contract associated with the vehicle;
2. in-kind replacement, or any service contract associated with the in-kind replacement, of parts for machinery or apparatus. Any replacement part or new apparatus that results in less than a 25 percent increase in beneficial use of post-consumer waste material will be considered an *in-kind replacement*;
3. structures, machinery, equipment, or devices, or any service contract associated with the structures, machinery, equipment, or devices, used to store or incinerate waste materials; and
4. used equipment, or any service contract associated with the used equipment.

C. The DEQ shall determine the costs to obtain and construct the qualified equipment, as well as the reasonable amount of the associated qualified service contract, that may be allowed for the credit. When the equipment is built from components and assembled at the installation site or a site separate from the installation site, and subsequently transported and installed at the installation site, the costs of the components, the costs to assemble the components, and

the costs to install the components shall be considered the allowed costs. In addition, any qualified service contract necessary to carry out the assembly, transportation, or installation of the qualified equipment shall be considered allowed costs.

D. The costs of materials, labor, and qualified service contracts associated with the project, used to construct a building or other structure necessary to support the equipment or to protect the equipment and operators from the elements while they operate the equipment shall be allowed costs, provided that the building or structure is used exclusively in connection with the recycling operations.

E. Under no circumstances shall any of the following be considered allowed costs:

1. financial charges;
2. the costs of acquiring land or rights in land, including any service contract associated with the costs of acquiring land or rights in land, and any costs incidental thereto, including recording fees; and
3. the costs to construct a building or structure, including any service contract associated with the construction of the building or structure, to store raw material or finished products.

F. The DEQ shall determine the costs to obtain and utilize a service contract by nonhazardous industrial waste generators or nonhazardous industrial waste beneficial users. Beneficial use programs for nonhazardous industrial waste streams shall be defined according to the DEQ's solid waste rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), amended LR 24:27 (January 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§10409. Application Requirements

A. Application Form for Equipment and Qualified Service Contracts

1. In order to qualify for the tax credit provided for in this Chapter, the taxpayer shall apply for certification from the Secretary of the Department of Environmental Quality that the new recycling manufacturing or process equipment purchased, and any associated service contract, is *qualified new recycling manufacturing and process equipment* or a *qualified service contract* as defined in LAC 33:VII.10405 and the equipment or service contract will be used or rendered exclusively in the state of Louisiana.

2. In addition to information provided on the application form, the DEQ may require and the applicant shall provide cost estimates, engineering drawings, specifications sheets, and any other documents necessary to establish with sufficient specificity the equipment and/or associated service contract qualifying for the tax credit.

3. In addition to information provided on the application form, the DEQ may require and the applicant shall provide such documentation as may be necessary to establish with sufficient specificity that the post-consumer waste material or recovered material proposed to be recycled is a nonhazardous solid waste under applicable state and federal law and regulations.

4. In addition, the DEQ may request documentation, in the form of bid amounts or other documentation, that a qualified service contract is for a reasonable amount and that

the qualified service contract complies with all existing State of Louisiana Code of Ethics provisions, or otherwise complies with all applicable state and federal law and regulations.

B. The applicant must report final costs of recycling equipment purchases and qualified service contracts to the LDR and the DEQ. Audits will be performed by the LDR and the DEQ as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§10411. Applicant Certification

A. Included with the application for certification shall be a statement acknowledging that the applicant shall use a good faith effort to utilize post-consumer waste material or recovered material, or has used the equipment or services contracted for to implement a Department of Environmental Quality-approved beneficial use program for a nonhazardous industrial waste stream, which was generated within the state of Louisiana or was destined to be land-filled within the state.

B. The applicant shall certify to the accuracy of the information contained in the application regarding the equipment or service contract description, the date of purchase, and the cost of the equipment or service contract. The certification shall also state that the equipment and/or service contract is used exclusively in the state of Louisiana and has not previously qualified for a credit pursuant to this Chapter either for the owner or for a previous owner. The certification shall specify the following:

1. the date of purchase of the qualified new recycling manufacturing or process equipment, a description of the equipment, and the cost;
2. the date of the qualified service contract, if any, a description of such contract, and its cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:842 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§10413. Department of Environmental Quality Certification

A. Prior to certification, the Secretary of the Department of Environmental Quality shall determine that any post-consumer waste material or recovered material proposed to be recycled is a nonhazardous solid waste or nonhazardous industrial solid waste under applicable state and federal law and regulations and/or is being used for a qualified beneficial use approved by the DEQ.

B. The Secretary of the Department of Environmental Quality shall examine the application and, if he determines that the equipment and/or service contract described therein is qualified new recycling manufacturing or process equipment and/or a qualified service contract used or rendered exclusively in the state of Louisiana, shall certify that the equipment and/or service contract is eligible for credit against state income and corporation franchise taxes pursuant to R.S. 47:6005.

C. Upon certification, the Secretary of the Department of Environmental Quality shall submit a copy of the signed, certified application to the taxpayer and to the Secretary of the Louisiana Department of Revenue. The secretary shall also submit a copy of the certification to the Commissioner of Administration, who shall approve the certification prior to a credit being granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:842 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§10415. Amount of Credit

A. The maximum total credit related to a purchase of qualified new recycling manufacturing or process equipment and/or a qualified service contract that may be allowable for all taxable periods is 20 percent of the cost of the qualified recycling equipment or qualified service contract, less the amount of any other Louisiana tax credits for the purchase of the equipment or the cost of the service contract. The total tax credits allowed under this Chapter shall be limited to five million dollars per tax year. Example:

Cost of equipment	\$1,000,000
	X .20
	\$ 200,000
Less other Louisiana credit on purchase	\$ 100,000
Maximum credit for all taxable periods	\$ 100,000

B. One-fifth (20 percent) of the maximum total credit related to a purchase of qualified recycling equipment and/or a qualified service contract is earned each taxable period in which the equipment or service contract continues to be in use exclusively in the state of Louisiana to a maximum of five periods. Example:

Maximum credit for all taxable periods	\$ 100,000
	X .20
Credit earned for this taxable period	\$ 20,000

C. The maximum credit that may be claimed for all purchases of qualified recycling equipment and/or qualified service contracts, including carryover of previously earned but unused credits, in any taxable period shall not exceed 50 percent of the tax that would be otherwise due. Example:

Tax otherwise due:	
Income tax	\$ 12,000
Franchise tax	\$ 18,000
Total	\$ 30,000
	X .50
Maximum credit to be claimed on return	\$ 15,000

D. ...

E. If the qualified recycling equipment is sold or exchanged before the entire credit is claimed, any unearned portion of the credit shall be canceled for all periods following the period of sale. If a qualified service contract is transferred by virtue of a sale of the qualified recycling equipment or otherwise before the entire credit is claimed, any unearned portion of the credit shall be canceled for all periods following the period of the transfer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:842 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on April 25, 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 SW043. Such comments must be received no later than May 2, 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. 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 SW043. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Recycling Tax Credit**

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

There are no implementation costs to state or local governmental units. DEQ will use existing personnel to review applications for certification of equipment and service contracts as new recycling equipment or service contracts. The Department of Revenue will process the credits with existing personnel.

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

Act 319 of the 2005 Regular Session of the Louisiana Legislature limits the aggregate total tax credit to five million dollars per fiscal year. Maximum impact for FY07 through FY09 is fifteen million dollars.

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

The regulations implement a legislatively-approved tax credit. As a tax credit, the regulations will directly benefit the applicants and the businesses that provide recycling services and, indirectly, the public. The tax credit will encourage an

increase in recycling activity and corresponding savings in valuable landfill space.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The regulations are expected to have minimal impact on competition or employment. The regulations will decrease costs for businesses that increase recycling.

Herman Robinson, CPM
Executive Counsel
0703#083

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity

Annual Leave (LAC 58:V.1305)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(F), proposes to amend LAC 58:V.1305. The proposed amended Rule expands the basis upon which a member of the fund can opt to convert annual leave to obtain additional pension credits.

All currently stated rules of the board, unless amended herein, shall remain in full force and effect.

Title 58

RETIREMENT

Part V. Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity

Chapter 13. Service Credit

§1305. Sick and Annual Leave

A. A member may elect to utilize any sick and annual leave he has accrued for purposes of obtaining additional pension credits.

B. A member may also elect at any time prior to retirement to utilize annual leave in excess of the "use it or lose it" leave limitations established by rules of the New Orleans City Civil Service Commission during any period of time allowed by City Civil Service Commission action for the "rolling over" of such excess annual leave to avoid forfeiture. Such excess leave may be used to obtain additional pension credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 26:293 (February 2000), amended LR 33:

Family Impact Statement

1. Estimated effect on the stability of the family. There is no estimated effect on the stability of the family.

2. Estimated effect on the authority and rights of parents regarding the education and supervision of their children. There is no estimated effect on the authority and rights of parents regarding the education and supervision of their children.

3. Estimated effect on the functioning of the family. There is no estimated effect on the functioning of the family.

4. Estimated effect on family earnings and family budget. It is estimated that this Rule will beneficially affect the family earnings of covered participants in that it will encourage longer service with the New Orleans Fire Department.

5. Estimated effect on the behavior and personal responsibility of children. There is no estimated effect on the behavior and personal responsibility of children.

6. Estimated effect on the ability of the family or a local government to perform the function as contained in the proposed Rule. There is no estimated effect on the ability of the family or a local government to perform the function as contained in the proposed Rule.

Any interested person may submit written comments regarding the content of this proposed Rule to Richard J. Hampton Jr., Secretary-Treasurer of the Board of Trustees, 3520 General DeGaulle, Suite 3001, New Orleans, LA, before 5 p.m., April 19, 2007.

Louis L. Robein, Jr.
Fund Counsel

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

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

It is estimated that very minimal costs will be incurred by the New Orleans Firefighters' Pension Fund (Fund) associated with the processing of applications for such converted credits in that data entry is routinely made by the Fund with respect to service credit adjustments for plan participants. The actuarial cost (ultimately borne by the City of New Orleans) would be de minimis.

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)

Members of the Fund (Firefighters employed by the City) would benefit by receiving incremental increases in their vested pension benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Rule would enhance the working conditions of New Orleans Firefighters and allow them to take advantage of a City program authorized by the City Civil Service Commission.

Louis Robein, Jr.
Fund Counsel
0703#086

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 Benefit
(LAC 32:III:701, V:701, 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 change the lifetime maximum benefit for all benefits, including outpatient prescription drugs, to \$5,000,000 per person, deleting the separate lifetime maximum for outpatient prescription drugs.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective July 1, 2007.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 7. Schedule of Benefits—PPO

§701. Comprehensive Medical Benefits

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

Lifetime maximum for all benefits, including outpatient prescription drug benefits, per person	\$5,000,000
Lifetime maximum for outpatient prescription drug benefits, per person	DELETED

A.1. - D. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1843 (October 1999), amended LR 26: 488 (March 2000), LR 27:719, 720, 722 (May 2001), LR 27:1887 (November 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:2345 (November 2002), LR 29:340, 342, 343 (March 2003), repromulgated LR 29:578 (April 2003), amended LR 30:1192 (June 2004), LR 32:1897 (October 2006), LR 33:

Part V. Exclusive Provider Organization (EPO)

Plan of Benefits

Chapter 7. Schedule of Benefits—EPO

§701. Comprehensive Medical Benefits

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

Lifetime maximum for all benefits, including outpatient prescription drug benefits, per person	\$5,000,000
Lifetime maximum for outpatient prescription drug benefits, per person	DELETED

A.1. - E. . . .

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1823 (October 1999), amended LR 26:487 (March 2000), LR 27:717 and 719 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1886 (November 2001), LR 28:476 (March 2002), LR 28:2342, 2343 (November 2002), repromulgated LR 28:2509 (December 2002), amended LR 29:335, 337, 338 (March 2003), LR 30:1190 (June 2004), LR 32:1869 (October 2006), LR 33:

Part IX. Managed Care Option (MCO) Plan of Benefits
Chapter 7. Schedule of Benefits—MCO

§701. Comprehensive Medical Benefits

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

1. Lifetime Maximum Benefits

Lifetime maximum for all benefits, including outpatient prescription drug benefits, per person	\$5,000,000
Lifetime maximum for outpatient prescription drug benefits, per person	DELETED

A.2. - D.3. . . .

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:901 (June 2003), amended LR 30:435 (March 2004), LR 33:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows: It will change the lifetime maximum benefit in all OGB plans, for all benefits, including outpatient prescription drugs, to \$5,000,000 per person, deleting the separate lifetime maximum for outpatient prescription drugs.

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, April 27, 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 Benefit**

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

The proposed Rule will increase the current lifetime maximum benefit from the current \$1,000,000 (PPO & MCO)/\$2,000,000 (EPO) per member to \$5,000,000 per member. It is estimated that this benefit modification will cost the PPO, EPO and MCO plans of OGB approximately \$396,000 to \$589,000 in FY 07/08, \$436,000 to \$648,000 in FY 08/09, and \$479,000 to \$713,000 in FY 09/10 (a 10% trend factor has been applied to FY 08/09 and FY 09/10). Although the increase of \$396,000 to \$589,000 in FY 07/08 for the cost of this benefit to OGB is paid from Agency-Self Generated Funds, 66% of the impact (\$264,000 to \$392,666) is on the State General Fund for employer contribution of premiums paid to OGB. It is anticipated \$3,000 in expenses will be incurred with the publishing of this rule in FY 07/08.

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 benefit

increased to \$5,000,000 per member from the current \$1,000,000 (PPO & MCO)/\$2,000,000 (EPO) limit. There is a minimum cost associated with this benefit change, 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
 0703#057

Robert E. Hosse
 Staff Director
 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
 Board of Examiners for Speech-Language
 Pathology and Audiology**

General Provisions
 (LAC 46:LXXV.103-109, 115-135, 501 and 701)

In accordance with the applicable provisions of R.S. 950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 37:2656 vesting the Louisiana Board of Examiners for Speech-Language Pathology and Audiology with the responsibility for administration of the provisions of that Chapter, and to establish licensure and other necessary administrative fees, and granting the power to adopt and promulgate rules with respect thereto, the Board of Examiners for Speech-Language Pathology and Audiology finds that it is necessary to revise and amend provisions of the rules, regulations and procedures relative to the temporary registration of Speech Pathologists and Audiologists during a declared state of public health emergency, as well as provide for the clarification of supervision requirements, an increase in video rental fees from \$15 to \$20 per video utilized for continuing education, and disciplinary action relative to current board policies and procedures. The temporary registration of professionals during a declared emergency is required by Act 207 of the 2006 Regular Session of the Louisiana Legislature.

Accordingly, the Louisiana Board of Examiners for Speech-Language Pathology and Audiology hereby gives Notice of Intent to adopt the following Rule to become effective July 2007.

**Title 46
 PROFESSIONAL AND OCCUPATIONAL
 STANDARDS
 Part LXXV. Speech Pathology and Audiology**

**Chapter 1. General Rules
 §103. Definitions**

A. . . .

Aides—individuals not licensed by the Louisiana Board of Examiners for Speech-Language Pathology and Audiology (LBESPA) who, after appropriate training, perform tasks that are prescribed, directed, and supervised by speech-language pathologists or audiologists licensed in accordance with R.S. 37:2659(A). Licensed speech-language pathologists and licensed audiologists are legally, ethically, and morally responsible for the services provided by aides working under their direction.

* * *

Nine Months of Full-Time Supervised Postgraduate Professional Employment/Experience—nine calendar months.

On-Site In-View Observation—the supervisor observing the licensee engaging in a specified clinical activity with his/her patient/client. The supervisor shall accomplish this task either by being physically present in the room or through the use of a live video monitor or web cam.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:705 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), LR 28:1781 (August 2002), LR 30:2307 (October 2004), LR 33:

§105. Designations

A. - B.1. ...

C. Titles and academic credential designations must represent earned degrees obtained through regionally accredited university programs. To appropriately represent the level of education in the area of practice, when listing an educational designation, the licensee must list the highest degree earned in speech-language pathology or audiology. In addition, graduate degrees earned in other disciplines must specify the area in which the degree was earned (e.g., B.S. [Speech-Language Therapy], M.Ed. [Administration]). When listing credentials, licensees should sequentially list their name, educational designation, license designation, and professional certification, e.g., M.A., L-SLP, CCC-SLP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:346 (May 1996), amended LR 27:197 (February 2001), LR 30:2308 (October 2004), LR 33:

§107. Qualifications for Licensure

A. Coursework Requirements: Audiology License and Provisional Audiology License. The applicant shall submit official transcripts from one or more regionally accredited colleges or universities evidencing completion of at least 75 semester credit hours of post-baccalaureate coursework for applicants who began a doctoral program after January 1, 2005.

B. - C.2.c. ...

D. Coursework Requirements: Speech-Language Pathology License and Provisional Speech-Language Pathology License. The applicant shall submit official transcripts from one or more regionally accredited colleges or universities evidencing completion of 75 semester credit hours, including at least 36 at the graduate level, from an accredited speech-language pathology program for applicants who began a graduate program after January 1, 2004.

E. - G. ...

1. A bachelor's degree in speech-language pathology from a regionally accredited institution fulfills the coursework requirements of the board provided the individual has successfully completed coursework in both articulation and language disorders.

2. - 4.b. ...

c. Normal Speech and Language Acquisition* 3 semester hours

4.d. - 5.c. ...

d. Fluency Disorders 3 semester hours

5.e. - 6.c. ...

H. Clinical Practicum Hour Requirements. An individual shall submit official documentation from a regionally accredited educational institution or its cooperating programs, verifying supervised clinical practicum hours as follows.

1. Speech-Language Pathology and Provisional Speech-Language Pathology Licenses

a. 400 clinical practicum hours if graduate program began after January 1, 2004;

b. 375 clinical practicum hours if graduate program began between January 1, 1994 and January 1, 2004;

c. 300 clinical practicum hours if graduate program began prior to January 1, 1994.

2. Audiology and Provisional Audiology Licenses

a. 1820 clinical practicum hours if the graduate program began after January 1, 2005, 375 hours of which must have been obtained through direct patient/client contact;

b. 375 clinical practicum hours if graduate program began between January 1, 1994 and January 1, 2005;

c. 300 clinical practicum hours if graduate program began prior to January 1, 1994.

3. Speech-Language Pathology Assistant License

a. 225 clinical practicum hours are required, the first 100 of which shall have been obtained through a regionally accredited educational institution or its cooperating programs. Of the 100 hours obtained through a regionally accredited educational institution, 75 shall be obtained through direct patient/client contact, and the remaining 25 hours may be obtained through observation of testing and therapy. It is recommended that the direct patient/client contact hours be obtained in at least two practicum sites with one site being a public school setting. The first 75 hours of direct patient/client contact shall be obtained in the following categories:

i. minimum of 20 hours in speech disorders;

ii. minimum of 20 hours in language disorders;

iii. the remaining 35 hours may be obtained in the areas of speech, language or hearing disorders. It is recommended that a minimum of 20 hours be in articulation.

b. The remaining 125 hours may have been obtained on-the-job and/or through a regionally accredited educational institution or its cooperating programs.

4. Provisional Speech-Language Pathology Assistant License

a. A minimum of 100 clinical practicum hours which have been obtained through a regionally accredited educational institution or its cooperating programs as defined in §107.I.3 is required.

b. The additional 125 hours required to upgrade to the Speech-Language Pathology Assistant License shall be obtained within three years of the date of issuance of the provisional assistant license and may be obtained by completing the remaining hours on-the-job and/or through a regionally accredited educational institution or its cooperating programs. Supervised on-the-job training which counts toward upgrading the license status will only be accepted from the date that the application for license is acknowledged to have been received by the board.

c. A provisional speech-language pathology assistant may surrender his/her license if unable to find employment in the area of speech-language pathology and may defer the remaining time of the three-year period to complete the licensure requirements.

i. If the licensee has never worked as a provisional speech-language pathology assistant, a notarized statement shall be submitted to the board office.

ii. If the licensee is not currently employed as a provisional speech-language pathology assistant a letter specifying date of termination from the last employer shall be submitted to the board office with Form 200, to verify supervision to the date of termination.

I. Equivalency Requirements: Speech-Language Pathology, Provisional Speech-Language Pathology, Audiology or Provisional Audiology License

1. Individuals who do not possess a graduate degree in either speech-language pathology or audiology but wish to obtain a license through the equivalency process shall meet the coursework, practicum and examination requirements for the area in which licensure is sought as defined in the board's rules entitled Coursework Requirements: Audiology License and Provisional Audiology License; Coursework Requirements: Speech-Language Pathology License and Provisional Speech-Language Pathology License; Clinical Practicum Hour Requirements and Examination Requirement.

J. - K.3 ...

4. repealed.

L. - L.1.c.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1690 (October 2001), amended LR 28:1781 (August 2002), LR 30:2308 (October 2004), LR 33:

§109. Application Procedures

A. - D. ...

E. Speech-language pathologists, assistants and/or audiologists who have held a license in another state, shall provide official verification of their licensure status in each state, including any formal disciplinary action resulting in sanction and/or disciplinary proceedings which are pending.

F. - J. ...

K. Individuals holding an unrestricted speech-language pathology or audiology license from another state shall be allowed to practice in Louisiana for five consecutive days within each renewal period upon proof of current licensure submitted to the board office 10 days prior to the scheduled activity.

L - L.1.d. ...

e. Notice of the consent order and agreement shall be published.

f. ...

M. Applications for licensure will be denied for individuals who are in default on the repayment of any loan guaranteed in accordance with R.S. 17:3023(A)(8) and 37:2951(A)(E).

N. Temporary Registration during a Declared Public Health Emergency

1. In a public health emergency lawfully declared as such by the governor of Louisiana, the requirement for a Louisiana license as an audiologist, speech-language pathologist, or speech-language pathology assistant may be suspended by the board at that time to those out of state audiologists, speech-language pathologists, or speech-language pathology assistants, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States, for a period of time not to exceed the duration and scope of R.S. 29:769(E), as more particularly set forth in this Section.

2. The following requirements for temporary registration may be imposed pursuant to the declared state of emergency and shall be in accordance with rules promulgated by the board.

3. An audiologist, speech-language pathologist, or speech-language pathology assistant not licensed in Louisiana, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States, may gratuitously provide audiology and speech-language pathology services if:

a. the audiologist, speech-language pathologist, or speech-language pathology assistant has photo identification and a license to verify a current and unrestricted license, certification or registration in another jurisdiction of the United States, and properly registers with the board prior to providing audiology or speech language pathology services in Louisiana as follows:

i. the audiologist, speech-language pathologist, or speech-language pathology assistant is engaged in a legitimate relief effort during the emergency period, and provides satisfactory documentation to the board of the location site(s) that he will be providing gratuitous audiology or speech-language pathology services;

ii. the audiologist, speech-language pathologist, or speech-language pathology assistant shall comply with the Louisiana Speech-Language Pathology and Audiology Practice Act, board rules, and other applicable laws, as well as practice in good faith, and within the reasonable scope of his skill, training, and ability; and

iii. the audiologist, speech-language pathologist, or speech-language pathology assistant renders services on a gratuitous basis with no revenue of any kind to be derived whatsoever from the provision of services within the state of Louisiana.

4. The authority provided for in the emergency rule shall be applicable for a period of time not to exceed 60 days at the discretion of the board, with the potential extension of up to two additional periods not to exceed 60 days for each extension as determined appropriate and necessary by the board.

5. All interested audiologists, speech-language pathologists, and speech-language pathology assistants shall submit a copy of their respective current and unrestricted licenses, certifications or registrations issued in other jurisdictions of the United States and photographic identification, as well as other requested information, to the Louisiana Board of Examiners for Speech-Language Pathology and Audiology for registration with this agency prior to gratuitously providing audiology or speech-language pathology services in Louisiana.

6. Should a qualified audiologist, speech-language pathologist, or speech-language pathology assistant registered with the board thereafter fail to comply with any requirement or condition established by this Section, the board may terminate his registration upon notice and hearing.

7. In the event an audiologist, speech-language pathologist, or speech-language pathology assistant fails to register with the board, but practices audiology or speech-language pathology, whether gratuitously or otherwise, then such conduct will be considered the unlawful practice of audiology or speech-language pathology and prosecuted accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:198 (February 2001), LR 28:1974 (September 2002), LR 30:2311 (October 2004), LR 33:

§115. Requirements to Upgrade License

A - H. ...

I. It is the responsibility of the licensee to submit the documents and make a written request for upgrade of his/her license status. Licensees shall complete all supervision requirements consistent with the license held and immediately thereafter submit appropriate supervision forms to the board office along with a written request for license upgrade and the upgrade fee. The licensee shall remain under supervision until the upgrade has been approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:349 (May 1996), amended LR 27:197 (February 2001), LR 28:1971 (September 2002), LR 30:2312 (October 2004), LR 33:

§117. Duties: Speech-Language Pathology Assistant License and Provisional Speech-Language Pathology Assistant License

A.1. All duties performed by the assistant speech-language pathology licensee or provisional speech-language pathology assistant licensee shall be assigned by a licensed speech-language pathologist and shall be supervised in accordance with the rules and regulations specified by the board. Caseload assignments shall be consistent with the knowledge base and training of the licensee for the performance of the following tasks:

a. conduct speech-language screenings and assessments without interpretation, following specified protocols as approved by the supervising speech-language pathologist. An assistant may not administer a test if the publisher's examiner requirements dictate administration by a graduate-degreed individual. All screening and assessment reports shall be cosigned and interpreted by the supervising speech-language pathologist;

b. - g. ...

h. speech-language pathology assistants may participate in parent conferences, case conferences, interdisciplinary team conferences, and research projects. Provisional speech-language pathology assistants may participate in these activities only with the supervising speech-language pathologist.

2. - 2.a.viii. ...

3. Failure to comply with these rules and regulations may result in disciplinary action against the assistant and/or the supervising speech-language pathologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 30:2312 (October 2004), amended LR 33:

§119. Fees

A. - A.4.k. ...

5. Registration fee for audiologists to dispense hearing aids—\$25.

6.

7. Brochures/Pamphlets—\$0.10 ea. plus postage and handling.

8. Continuing Education Pre-Approval Fee for Corporations or Individuals Who Are Not LBESPA Licensees—\$50.

9. Fax transmission—\$3 for first page; \$1 each additional page.

10. Mailing list—\$0.05 per name and address plus postage and handling.

11. NSF or returned check—\$25.

12. Open book test fee—\$30:

a. open book retest fee, per section—\$10.

13. Publications to include law, rules, etc.—\$5 ea. plus postage and handling.

14. Re-issuance of license certificate—\$25.

15. Subpoena within East Baton Rouge Parish—\$50:

a. subpoena plus state-allowed travel rate per mile outside East Baton Rouge Parish—\$50.

16. Verification of license (written)—\$5.

17. Video rental—\$20 per tape for 2 weeks:

a. \$35 for 2-tape set for 2 weeks;

b. late return fee—\$20 per tape;

c. late 30 days or more cost of tape;

d. video catalog—\$5.

18. An additional fee will be charged for on-line renewal in accordance with state treasury rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:350 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1691 (October 2001) amended LR 30:2313 (October 2004), LR 33:

§121. License Renewals

A. - B. ...

C. Licensees shall list on their renewal form the licensees i.e., provisional speech-language pathologists, provisional audiologists, restricted speech-language pathologists, restricted audiologists, speech-language pathology assistants, or provisional speech-language pathology assistants, and aides that they are supervising.

D. - E. ...

F. Inactive status is granted to licensees who are retired or who do not practice speech-language pathology or audiology during the fiscal year, July 1 through June 30.

1. ...

2. Licensees on inactive status may retain their license by payment of the annual renewal fee. In order to resume the

practice of speech-language pathology or audiology, licensees on inactive status shall demonstrate completion of five clock hours of continuing education in the area of licensure for each year that inactive status was maintained (maximum of 25 hours).

3. The licensee may submit the required five hours of continuing education each year he/she is on inactive status or submit all of the hours the year he/she returns to work in the profession.

G. ...

H. Renewal will be denied for licensees who are in default on the repayment of any loan guaranteed in accordance with R.S. 17:3023(A)(8) and R.S. 37:2951(A)(E).

I. Delinquent Renewal

1. Delinquent requests for renewals will be accepted by the board through October 31, provided the delinquent renewal fee is paid in accordance with §119.C and D, and the continuing education summary form is submitted.

2. A licensee whose license lapsed on November 1, and applies to reinstate prior to the following June 30, is required to submit a completed application, proof of continuing education, initial license fee and delinquent renewal fee in accordance with §119.A and D and §123.

3. A licensee whose license lapsed on November 1, and applies for reinstatement after June 30, of the following year, is subject to the initial license fee and the requirements of §121.I.3.

J. Conditional Renewal

1. Licensees who previously held a full, valid license which was obtained under the grandfather clause of Act 260 of the 1978 Regular Session of the Louisiana Legislature, whether delinquent or lapsed, for a period not to exceed five years, shall be eligible for licensure renewal or reinstatement upon meeting the continuing education requirement and submitting the appropriate renewal fee in accordance with §119. If the license has lapsed for a period of more than five years, applicants shall reapply in accordance with the requirements enumerated in R.S. 37:2651 et seq., as amended by Act 892 of the 1995 Regular Session of the Louisiana Legislature.

2. Licensees who previously held a restricted license which was obtained under Act 260 of the 1978 Regular Session of the Louisiana Legislature, whether delinquent or lapsed, shall be eligible for licensure renewal or reinstatement, upon meeting the continuing education requirement and submitting the appropriate renewal fee as required in accordance with §119 and §123.

3. Licensees who allow their license to lapse (November 1) shall submit documentation of completion of five clock hours of continuing education (maximum of 25 hours) in the area of licensure for each year that the license has lapsed in addition to meeting the license requirements enumerated in R.S. 37:2650 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:351 (May 1996), LR 27:198 (February 2001), LR 28:1972 (September 2002), LR 30:2314 (October 2004), LR 33:

§123. Continuing Education Requirements

A. - I.1. ...

2. workshops in the area of communication disorders sponsored by individual professional practitioners and/or professional organizations such as American Academy of Audiology (AAA), American Speech-Language-Hearing Association (ASHA), Louisiana Speech-Language-Hearing Association (LSHA), Speech Pathologists and Audiologists in Louisiana Schools (SPALS), Louisiana Society for Hearing Aid Specialists, etc. (maximum of 10 hours);

3. activities provided by ASHA-approved continuing education providers or AAA-approved continuing education activities;

4. meetings of related professional organizations (e.g., Council for Exceptional Children, Orton Dyslexia Society) (maximum of 10 hours);

5. college courses in the area of licensure taken for credit or official audit (three semester hours or six quarter hours = 10 hours of continuing education);

6. distance learning (video conferences, telephone seminars and Internet courses sponsored by individual private practitioners, universities, schools, clinics, state agencies, hospitals, professional organizations, or related professional organizations) (maximum of 10 hours);

7. workshops and in-services that are university, school, clinic, hospital or state agency sponsored (maximum of 5 hours in a related area, maximum of 10 hours if in the area of licensure);

8. publication of articles in a peer-reviewed journal for the year in which they are published (5 hours);

9. scientific or educational lectures to include presentations such as poster sessions given by the licensee (maximum of 5 hours);

10. audio, video and other media from the LBESPA library as well as ASHA-approved and AAA-approved continuing education media (maximum of 5 hours);

11. the presenting licensee may count 1 1/2 times the value of an activity the first time it is presented to allow for preparation time (Example: a three hour workshop = 4 1/2 hours). The activity will count for the actual hour value for each subsequent presentation of the same activity;

12. teaching at the college level in the area of communication disorders is not acceptable.

J. - J.2. ...

3. Individuals not licensed by LBESPA as well as corporations offering continuing education not addressed under Section 123.I., must submit a \$50 continuing education review fee along with the pre-approval request.

4. Licensees who elect to attend university classes/courses in speech-language pathology and/or audiology without payment of the university fee shall submit a self-study plan for pre-approval from the Louisiana Board of Examiners for Speech-Language Pathology and Audiology to receive continuing education credits.

5. Self-study activities in the area of communication disorders:

a. audio or video tapes (maximum of 5 hours);

b. reading of journal articles that contain self-examination questions at the end. Articles shall be submitted for pre-approval (maximum of 5 hours).

6. Publication of diagnostic and/or therapeutic materials (maximum of 5 hours).

K. - K.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:351 (May 1996), amended LR 27:199 (February 2001), LR 28:1973 (September 2002), LR 30:2314 (October 2004), LR 33:

§125. Supervision Requirements for Restricted License, Provisional Speech-Language Pathology License and Provisional Audiology License

A. Restricted licensees, provisional speech-language pathology licensees and provisional audiology licensees are required to undergo direct supervision by a licensed speech-language pathologist or audiologist, licensed in the area in accordance with R.S. 37:2659.A. The on-site in-view supervision as well as the alternative methods of supervision must occur in every work setting in which the licensee is employed. An individual may not be supervised by a provisional licensee, restricted licensee, or assistant licensee.

B. Supervision must involve the personal and direct participation of the supervisor in order for the supervisor to monitor, observe, evaluate, and make suggestions for improvement regarding the supervisee's professional employment.

C. Restricted licensees, provisional speech-language pathology licensees and provisional audiology licensees must submit a supervisory agreement signed by the supervisor and supervisee as prescribed by the board. The form must be submitted to the board by the supervisee within 30 days of employment and submitted annually at the time of renewal. If there is a change in supervisor(s) at any time, a new supervisory agreement must be submitted to the board within 30 days of the change in supervision. If there are multiple supervisors for the same supervisee, all supervisors must sign the supervisory agreement.

D. Speech-language pathologists or audiologists may share the supervision responsibility for Provisional or Restricted licensees, but each supervising speech-language pathologist or audiologist shall complete and submit the necessary supervision forms.

E. Supervisory records, including supervision logs and other documentation of supervision, shall be maintained by both the supervisor and supervisee for a period of three years. Documentation of supervision may be requested by the board.

F. The direct supervision of the licensee, whether employed full-time or part-time, shall include 12 monitoring activities annually.

1. At least four shall be on-site, in-view observations divided between the areas of diagnostics and management. Alternative methods may include conferences, audio and videotape recordings, review of written records, staffings and discussions with other persons who have participated in the licensee's training.

2. For 12-month employees, one on-site, in-view observation shall be conducted each quarter.

3. For nine-month employees, two on-site, in-view observations shall occur in each semester. If the nine-month employment is extended for a period of time, additional on-site, in-view supervision must occur.

G. Documentation of supervision shall be submitted annually at the time of license renewal on Form 100 provided by the board.

H. Licensees shall complete all supervision requirements consistent with the license held and immediately thereafter submit appropriate supervision forms to the board office along with a written request for license upgrade and the upgrade fee. The licensee shall remain under supervision until the upgrade has been approved by the board.

I. The board will accept supervision provided out-of-state by an individual licensed or ASHA-certified in the area of practice. Supervision must be documented on Form 100.

a. Restricted licensees, provisional speech-language pathology licensees and provisional audiology licensees who have not worked in Louisiana, may submit their Clinical Fellowship Report as proof of supervision that was carried out during the license period. Otherwise licensees must submit at the time of license renewal, appropriate proof of supervision consistent with Louisiana supervision requirements.

J. Licensees who are not working in the field of speech-language pathology and/or audiology and who hold a license requiring supervision, shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

K. All costs of supervision shall be borne by the licensee or his/her employer, but in no event will those costs be borne by the board.

L. When supervision requirements have not been met in accordance with §125, licensees shall complete additional months of supervision to replace months of incomplete supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:199 (February 2001), LR 28:1974 (September 2002) LR 30:2315 (October 2004), LR 33:

§127. Supervision Requirements for Speech-Language Pathology Assistant and Provisional Speech-Language Pathology Assistant

A. ...

B. Supervision must involve the personal and direct participation of the supervisor in order for the supervisor to monitor, observe, evaluate, and make suggestions for improvement regarding the supervisee's employment.

C. Speech-language pathology assistants and provisional speech-language pathology assistants must submit a supervisory agreement signed by the supervisor and supervisee as prescribed by the board. The form must be submitted to the board by the supervisee within 30 days of employment and submitted annually at the time of renewal. If there is a change in supervisor(s) at any time, a new supervisory agreement must be submitted to the board within 30 days of the change in supervision. If there are multiple supervisors for the same supervisee, all supervisors must sign the supervisory agreement.

D. Speech-language pathologists may share the supervision responsibility for speech-language pathology assistants or provisional speech-language pathology assistants, but each supervising speech-language pathologist shall complete and submit the necessary supervision forms.

E. Treatment for the patient/client served remains the responsibility of the supervisor. The level of supervision required is considered the minimum necessary to ensure appropriate patient/client care. The minimum level of supervision may not be reduced until such time as the licensee has been notified by the board that an upgrade has been approved.

F. The board will accept supervision given out-of-state by a licensed or ASHA certified speech-language pathologist or audiologist in the area of licensure. Licensees must submit at the time of license renewal, appropriate proof of supervision consistent with Louisiana supervision requirements.

G. Assistants who are not working in the field of speech-language pathology shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

H. Although more than one speech-language pathologist may provide supervision of an assistant licensee and provisional assistant licensee, at no time may a licensed speech-language pathologist supervise or be listed as a supervisor for more than three assistant or provisional assistant licensees. When multiple supervisors are used, the supervisors are encouraged to coordinate and communicate with each other.

I. Provisional speech-language pathology assistants and speech-language pathology assistants must undergo on-site in-view supervision as well as alternative methods of supervision in every work setting in which the licensee is employed.

J. Documentation of supervision shall be submitted annually at the time of license renewal on Form 200 provided by the board.

K. The supervising speech-language pathologist shall be readily available for consultation with the assistant licensee. This includes personal contact, telephone, pager, or other means of communication.

L. Supervision Requirements for the Speech-Language Pathology Assistant

1. A minimum of one clock hour of on-site, in-view supervision shall be completed in the primary work setting each week for each licensee. If the assistant is employed in more than one work setting, additional on-site, in-view supervision must occur in the secondary work setting.

2. A minimum of one clock hour of alternative supervision methods shall be completed each week for each licensee. These methods should include, but are not limited to:

- a. specifying protocols for speech-language screenings and assessments conducted by the assistant licensee;
- b. specifying protocols for hearing screenings conducted by the assistant licensee;
- c. approving treatment plans or protocols and documenting approval;
- d. monitoring patient/client progress toward meeting established objectives;
- e. monitoring, scheduling, charting and data collection;
- f. directing maintenance of equipment;
- g. directing research projects, in-service training and public relations programs;

h. conducting telephone conferences.

3. If circumstances prohibit a supervisor from completing the minimum supervision requirements (§127.I.1 and 2) in a given week, the remaining supervision may be completed the following week in conjunction with the required supervision hours for that week.

4. When the supervising speech-language pathologist is unavailable for supervision for an extended period of time, arrangements shall be made for another qualified supervisor or the speech-language pathology assistant shall be transferred to other duties.

5. Speech-Language Pathology Assistant Full-Time and Part-Time Supervision Requirements

Hours Worked	Required Supervision On-Site, In-View	Required Supervision Alternative Method
21-40 hours	1 hour/week	1 hour/week
20 hours or less	1 hour/every 2 weeks	1 hour/every 2 weeks

6. Assistant licensees shall be supervised only by a speech-language pathologist licensed under the provisions of R.S. 37:2659(A) with the exception of hearing screenings which may be supervised by an audiologist, licensed under the provisions of R.S. 37:2659. An individual may not be supervised by a provisional licensee or restricted licensee.

M. Supervision Requirements for the Provisional Speech-Language Pathology Assistant

1. A minimum of three clock hours of on-site, in-view supervision shall be completed in the primary work setting each week for each licensee. If the provisional speech-language pathology assistant is employed in more than one work setting, additional on-site, in-view supervision must occur in the secondary work setting.

2. A minimum of two clock hours of alternative supervision methods shall be completed each week for each licensee.

3. These methods should include, but are not limited to:

- a. specifying protocols for speech-language screenings and assessments conducted by the assistant licensee;
- b. specifying protocols for hearing screenings conducted by the assistant licensee;
- c. approving treatment plans or protocols and documenting approval;
- d. monitoring patient/client progress toward meeting established objectives;
- e. monitoring scheduling, charting and data collection;
- f. directing maintenance of equipment;
- g. directing research projects, in-service training and public relations programs;
- h. conducting telephone conferences.

4. If extenuating circumstances prohibit a supervisor from completing the minimum supervision requirements (§127.J.1 and 2) in a given week, the remaining supervision may be completed the following week in conjunction with the required supervision hours for that week.

5. When the supervising speech-language pathologist is out for an extended period of time, arrangements shall be made for another qualified supervisor or the provisional speech-language pathology assistant shall be transferred to other duties.

6. When supervision requirements have not been met, in accordance with §127 licensees shall complete additional months of supervision to replace months of incomplete supervision.

7. Provisional speech-language pathology assistant full-time and part-time supervision requirement:

Hours Worked	Required Supervision On-Site, In-View	Required Supervision Alternative Method
21-40 hours	3 hours/week	2 hours/week
20 hours or less	1.5 hours/every 2 weeks	1 hour/every 2 weeks

8. Provisional assistant licensees shall be supervised by a speech-language pathologist licensed under the provisions of R.S. 37:2659(A) with the exception of hearing screenings which may be supervised by an audiologist, licensed under the provisions of R.S. 37:2659. An individual may not be supervised by a provisional licensee or a restricted licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:353 (May 1996), LR 27:200 (February 2001), repromulgated LR 27:1691 (October 2001), amended LR 30:2316 (October 2004), LR 33:

§129. Independent Practice

A. Licensed audiologists and speech-language pathologists, by virtue of academic coursework, clinical practicum, and professional experience, are qualified to engage in the autonomous or independent practice of the professions. Individuals who hold a license, i.e., provisional, restricted, assistant or provisional assistant, mandating supervision during the practice of the professions may not engage in the autonomous or independent practice of audiology or speech-language pathology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 33:

§131. Hearing Aid Dispensing

A. Audiologists who dispense hearing aids shall meet the coursework and practicum requirements for dispensing as specified in R.S. 37:2650 et seq., and shall register their intent to do so at the time of each license renewal.

1. Dispensing audiologists shall pay an initial registration fee of \$25 and an annual renewal fee of \$10 in addition to the fees charged for licensure renewal.

2. Dispensing audiologists shall affix an annual registration seal to the displayed audiology license.

B. Audiologists who hold a provisional audiology license shall be supervised by a licensed, registered dispensing audiologist while completing the postgraduate professional employment/experience requirements for full licensure.

C. Audiologists who hold an audiology license but are completing the coursework or practicum requirements for registration as a dispenser shall follow the supervision requirements as specified in §125 and shall submit the board's Form 100 at the time of renewal. The board's Form 100 shall be submitted to upgrade the license status.

D. Audiologists who dispense hearing aids shall maintain annual calibration records on audiometric equipment.

E. Audiologists who dispense hearing aids shall meet the minimum continuing education requirements for license renewal with at least three of the required 10 hours in areas specifically related to hearing aids and/or the dispensing of hearing aids.

F. Audiologists who dispense hearing aids shall comply with the following guidelines.

1. Audiologists shall ensure that a pre-purchase evaluation includes:

- a. a case history;
- b. an otoscopic examination;
- c. a basic audiological test battery within the preceding six month period, including:
 - i. pure tone air and bone conduction testing;
 - ii. speech reception threshold;
 - iii. word recognition testing;
 - iv. appropriate tolerance testing;
 - v. middle ear measurements when indicated.

2. Audiologists shall provide the consumer with a minimum 30-day trial period on all new hearing aids purchased.

3. Audiologists shall inform the consumer of the total cost of the hearing aid, including any fees for returning the aid at the end of the trial period.

4. Audiologists shall conduct a post-fitting evaluation that includes functional gain measurements and/or real ear measurements unless the patient's physical condition prohibits accomplishment of these procedures.

5. Audiologists who engage in the fitting or selling of hearing aids shall deliver to each person supplied with a hearing aid, a bill of sale which shall contain the dispenser's signature, address and license number, together with a description of the make, model and serial number of the hearing aid and the amount charged. The bill of sale shall also indicate whether the hearing aid is new, used, or reconditioned.

G. Audiologists who meet the qualifications for licensure as an audiologist and who were exempt under R.S. 37:2464(A) as part of their employment with a state health agency may register as dispensing audiologists by presenting proof of employment and dispensing experience in that job setting.

H. Audiologists who meet the qualifications for licensure as an audiologist but lack the coursework and practicum requirements necessary for registration as a dispenser may fulfill the requirements by completing nine months of postgraduate professional employment/experience under the supervision of a licensed dispensing audiologist, and by proof of the successful completion of a study course by the National Institute for Hearing Instruments Studies, or its equivalent. Equivalency for National Institute for Hearing Instruments Studies is defined as:

1. an individualized program of study that shall include:

- a. hearing aid technology and dispensing courses sponsored by hearing aid manufacturers to include a minimum of 15 clock hours;
- b. workshops in the area of hearing aid technology and dispensing sponsored by professional organizations or

individual practitioners to include a minimum of 15 clock hours;

c. successful completion of university coursework in the area of hearing aid technology and dispensing; or

d. programs of independent study consisting of a minimum of 15 clock hours in the area of hearing aid technology and dispensing.

2. Any individualized program of study shall be submitted to the board a minimum of 30 days in advance for pre-approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:353 (May 1996), amended LR 27:201 (February 2001), LR 28:1975 (September 2002), LR 30:2317 (October 2004), LR 33:

§133. Qualifications and Duties of Aides

A. Speech-language pathologists and audiologists are legally, ethically, and morally responsible for the services provided by aides working under their direction.

B. Requirements for the use of aides follow.

1. A licensed speech-language pathologist or audiologist may utilize an aide who meets the following qualifications. The aide shall:

- a. be of good moral character;
- b. be at least 18 years old;
- c. possess appropriate communication skills;
- d. have a high school diploma or G.E.D.

2. The supervising speech-language pathologist or audiologist is responsible for determining that the aide is qualified and prepared for the duties which s/he will be assigned. It is recommended that the aide be afforded continuing education opportunities. Appropriate areas of training may include:

- a. normal processes in speech, language and hearing;
- b. disorders of speech, language and hearing;
- c. record-keeping and data compilation;
- d. utilization of equipment and materials;
- e. professional ethics and their application to the aide's duties;
- f. administration of hearing screening tests.

C. Supervision

1. The licensed speech-language pathologist or audiologist shall provide periodic direct observation for each aide at least once per month during the initial year of the aide's employment. Speech-language pathology aides are required to undergo direct supervision by a licensed speech-language pathologist, licensed in the area in accordance with R.S. 37:2659(A). Audiology aides are required to undergo direct supervision by a licensed audiologist, licensed in the area in accordance with R.S. 37:2659(A). Speech-language pathology aides and audiology aides may not be supervised by a provisional licensee, restricted licensee, or assistant licensee.

2. The direct observation in subsequent years shall be established by the supervising speech-language pathologist or audiologist on an individual basis but shall be no less than once every three months.

3. The supervising speech-language pathologist or audiologist shall be readily available for consultation with the aide at all times.

4. Documentation of on-site, in-view supervision shall be maintained by the supervising speech-language pathologist or audiologist and shall be submitted to the board upon request.

5. The supervising speech-language pathologist or audiologist shall report to the board at the time of licensure renewal, the names and employment locations of aides.

D. The speech-language pathology aide may engage in activities limited to those that are planned and directed by the supervising speech-language pathologist. Providing that the preparation, training, and supervision are appropriate, the following tasks may be assigned to speech-language pathology aides:

1. setting up room and equipment;
2. clearing room and storing equipment;
3. preparing materials (such as making copies, typing forms) for use by the speech-language pathologist;
4. checking equipment to determine if the equipment is performing adequately;
5. transporting patients/clients to and from sessions;
6. assisting with field trips;
7. performing hearing screenings limited to pure-tone air conduction screening and screening tympanometry;
8. recording, charting, graphing, or otherwise displaying objective data relative to the patient's/client's performance.

E. The audiology aide may engage in activities limited to those that are planned and directed by the supervising audiologist. Providing that the preparation, training, and supervision are appropriate, the following tasks may be assigned to audiology aides:

1. setting up room and equipment;
2. clearing room and storing equipment;
3. preparing materials (such as making copies, typing forms) for use by the audiologist;
4. checking equipment to determine if the equipment is performing adequately;
5. transporting patients/clients to and from sessions;
6. assisting with field trips;
7. performing hearing screening tests and pure-tone air conduction threshold tests without interpretation;
8. recording, charting, graphing, or otherwise displaying objective data relative to the patient/client's performance.

F. Only the speech-language pathologist or audiologist shall exercise independent judgment in the provision of professional services. Specifically, the speech-language pathologist or audiologist may not delegate any of the following to the aide:

1. speech-language screening;
2. evaluation, diagnosis, or therapy with individuals with speech, language or hearing disorders;
3. interpretation of test results or discussion of confidential information despite the fact that this information may have been requested by the patient/client, parent or referring agency;
4. performance of any procedure for which the aide has not been trained.

G. Exemption. Aides employed on or before April 1996 may continue to operate under the provisions of Chapter 3, §§301-305 of the *Louisiana Register* 16:409 (May 1990) of

the Louisiana Board of Examiners for Speech Pathology and Audiology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 16:409 (May 1990), amended LR 22:355 (May 1996), LR 27:201 (February 2001), LR 28:1781 (August 2002), LR 30:2318 (October 2004), LR 33:

§135. Disciplinary Actions

A. This board may refuse to issue, may suspend or revoke a license for the practice of speech-language pathology or audiology or otherwise discipline an applicant or licensee, upon finding that the applicant or licensee has violated any provisions of R.S. 37:2650 et seq., or any of the rules or regulations promulgated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:354 (May 1996), LR 28:1975 (September 2002), LR 30:2319 (October 2004), LR 33:

Chapter 5. Procedural Rules

§501. Investigation of Complaints

A. - D. ...

E. The board's designated investigator shall have authority to investigate the nature of the complaint through conference, correspondence, and other investigative procedures, directed to those parties or witnesses involved. The board's designated investigator shall send the involved licensee notice by certified mail, return receipt requested, of the investigation containing a short summary of the complaint. All subsequent letters to the involved licensee, all letters to the complainant, or any other witness, shall be sent with a designation "personal and confidential" clearly marked on the outside of the envelope.

F. The designated investigator shall conclude the investigation as quickly as possible, without compromising thoroughness. Unless good cause is shown by the designated investigator satisfactory to the board, which may extend the time for the investigation, the investigation and recommendations to the board shall be delivered to the board within 60 days of the date that the designated investigator first received the assignment from the board.

G. Following an investigation, the designated investigator shall report to the board and make a recommendation for either dismissal of the complaint or proceeding to an informal hearing, consent order, or formal hearing. Recommendation for dismissal of the complaint or other proceedings shall be forwarded to the complainant and to the licensee.

H. The designated investigator may determine that the licensee's explanation satisfactorily answers the complaint and may recommend to the board that the matter be dismissed.

I. ...

J. A complaint may be resolved by a consent order and agreement approved by the board and entered into by the licensee.

K. The designated investigator shall recommend to the board the initiation of a formal disciplinary hearing if the investigation discloses any of the following: the complaint is sufficiently serious to require a formal adjudication; the

licensee fails to respond to the correspondence by the designated investigator concerning the complaint; the licensee's response to the designated investigator discloses that further action is necessary; an informal hearing is held but does not resolve all of the issues; or the licensee refuses to comply with the recommended remedial action.

L. The designated investigator shall submit any recommended action to the board in brief, concise language, without any reference to the particulars of the investigation, to any findings of fact or any conclusions of law arrived at during the investigative process.

M. The board shall have the authority to delegate to the designated investigator any alleged violations of the Speech-Language Pathology and Audiology Act, R.S. 37:2650 et seq., and any alleged violations of any and all rules and regulations adopted by the board pursuant thereto, prior to board action on those alleged violations. If requested by the board, the designated investigator shall submit to the board the complete investigation file. Final authority for appropriate action rests solely with the board.

N. At no time shall the designated investigator investigate any case as authorized by the board where the investigator has any personal or economic interest in the outcome of the investigation, or is personally related to or maintains a close friendship with the complainant, the licensee, or any of the witnesses involved. In such event, the designated investigator shall immediately notify the board, who shall appoint a substitute investigator for disposition of that particular case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:373 (April 1991), amended LR 22:356 (May 1996), LR 30:2320 (October 2004), LR 33:

Chapter 7. Code of Ethics

§701. Preamble

A. - D. ...

E. Rules of Ethics

1. Principle of Ethics I. Licensees shall honor their responsibility to hold paramount the welfare of persons they serve and provide professional services with honesty and compassion and shall respect the dignity, worth, and rights of those served. The licensee shall take all reasonable precautions to avoid harm to the individual served professionally.

1.a. - 2.c. ...

d. Individuals shall provide appropriate supervision and assume full responsibility for services delegated to all supervisees, including assistants or aides. Individuals shall not delegate any service requiring professional competence to persons unqualified.

e. Individuals shall neither provide services nor supervision of services for which they have not been properly prepared, nor shall individuals require or permit their professional staff to provide services or conduct research activities that exceed the staff member's competence, level of education, training, or experience.

2.f. - 4.i. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language

Family Impact Statement

The proposed Rule has no known impact of family formation, stability, or autonomy.

Interested persons may present their views, in writing Richard N. Burt, Administrator, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, 18550 Highland Road, Suite B, Baton Rouge, LA 70809, until 4:30 p. m. on April 25, 2007.

Richard N. Burt
Administrator

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

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

It is anticipated that \$7,500 in printing costs will be incurred with the publishing of the proposed rule changes in FY 06-07 and FY 07-08. The Board has sufficient self-generated funds available to implement the proposed rule.

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

It is estimated that revenue collections of the Board will increase by approximately \$2,000 in FY 07-08 and subsequent fiscal years. No other state or local governmental units will be affected.

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

The proposed rule, pursuant to Act 207 of the 2006 Regular Session of the Louisiana Legislature, provides for the temporary registration of Speech Pathologists and Audiologists during a state of public health emergency. The proposed rule also provides clarification of supervision requirements, continuing education, and disciplinary action relative to current Board policies and procedures. The proposed rule increases the fee for video rentals used to secure continuing education hours under the Board's rules from \$15 to \$20 (approximately 400 rentals per year = \$2,000).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment should not be affected.

Richard N. Burt
Administrator
0703#056

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Nursing**

Faculty and Faculty Organization (LAC 46:XLVII.3515)

The Louisiana State Board of Nursing proposes to amend LAC 46:XLVII.3315 Faculty and Faculty Organization in accordance with R.S. 37:918, R.S. 37:919 and R.S. 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 35. Nursing Education Programs

§3515. Faculty and Faculty Organization

A. Faculty Body. There shall be qualified faculty adequate in numbers to provide a safe, effective faculty/student/client ratio not to exceed 10 students to one faculty member (10:1) in a clinical setting and to implement the program in nursing in relation to its stated philosophy, purposes and objectives. The number and size of classes taught each year, and the number of community agencies and their geographic locations are considered in determining the number of required faculty (see Requirements for Preceptorship; §3541.A-J, for related standard).

B. Qualifications

1. The program head and each nurse faculty member shall hold a current license to practice as a registered nurse in Louisiana and shall be appointed in compliance with state and federal laws on non-discrimination.

2. The program head of a baccalaureate program shall hold a minimum of bachelor's and master's degrees in nursing, or its equivalent, and an earned doctorate, and shall have a minimum of three years experience in the areas of nursing education and three years in clinical practice.

3. The program head of an associate degree or diploma program shall hold a minimum of bachelor's and master's degrees in nursing and shall have a minimum of three years experience in the areas of nursing education and three years in clinical practice.

4. The nurse faculty shall hold bachelor's and master's degrees in nursing. Requests for academic equivalency shall be approved on an individual basis (see LAC 46:XLVII.3515.B.6 for related standard).

5. Nurse faculty shall have a minimum of two years of nursing practice as a registered nurse in a clinical setting prior to their appointment.

6. Nurse faculty shall maintain current knowledge and skills in areas of responsibility and provide documentation of same.

7. Exceptions to the academic qualifications for nurse faculty shall be justified and approved under board-established guidelines. Such exceptions, if granted by the board shall be:

a. baccalaureate in nursing prepared individuals who are not enrolled in a masters' in nursing program are limited to a maximum of two calendar years in any consecutive five year period;

b. baccalaureate in nursing prepared individuals who are enrolled in a masters' in nursing program shall be approved annually on an individual basis in accordance with current board guidelines. Exceptions may be granted to each individual for a maximum of four calendar years.

8. The number of faculty exceptions shall not exceed 20 percent of the number of full-time nurse faculty employed (not FTE) in the program.

C. A faculty resignation rate that exceeds one third of the full-time nurse faculty employed by the program (not FTE) in an annual report shall be reported and justified in the annual school report.

D. Nurse faculty shall function under the same policies established for other faculty in the parent institution.

E. Policies for nurse faculty shall include but not be limited to:

1. qualifications for the position;
2. contract or letter of appointment to delineate terms of appointment, functions and responsibilities of the position; and
3. salary scale, promotion, retirement, vacation, sick leave, leave of absence for personal and professional growth and health care benefits.

F. A written plan for performance evaluation of faculty shall be established and utilized on a continuing basis.

G. A nurse faculty organization shall be established consistent with the parent institution and shall have clearly delineated bylaws.

H. Faculty workloads shall allow time for class and laboratory preparation, teaching, program revision, improvement in teaching methods, guidance of students, participation in faculty organizations and committees, research and scholarly endeavors, attendance at professional meetings and participation in continuing education programs.

I. Nurse faculty shall select, teach, guide and evaluate all learning experiences in the classroom and clinical facilities.

J. Nurse faculty shall be within the clinical facility during the learning experiences of students unless the students are observing only or engaged in a board-approved preceptor or community-based experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:186 (April 1977), amended LR 10:1025 (December 1984), LR 12:678 (October 1986), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1147 (September 1993), repromulgated LR 24:1293 (July 1998), amended LR 26:2789 (December 2000), repromulgated LR 27:851 (June 2001), amended LR 33:

Family Impact Statement

In compliance with R.S. 49:953 and 974, the following Family Impact Statement of the proposed Rule is provided. There should be no adverse effect on the stability of the family; the authority and rights of parents regarding the education and supervision of their 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 on the proposed Rule until 5 pm, April 10, 2007 to Barbara L. Morvant, Executive Director, 5207 Essen Lane, Suite 6, Baton Rouge, LA 70809.

Barbara L. Morvant, MN, RN
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Faculty and Faculty Organization

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

The is no anticipated increase in expenditures or savings due to these proposed rules except for the publication of the proposed rules estimated at \$300 in FY 06-07.

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)

The proposed rules amend LAC 46: XLVII.3315 Faculty and Faculty Exceptions to increase the time that a program may request for a faculty exception from 1 year to 2 years in any consecutive 5 year period (approximately 23 facilities). The proposed rule increases the time that faculty exceptions may be granted to individuals with a baccalaureate degree in nursing who are enrolled in a master's in nursing program from 3 to 4 years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition. The benefit is to programs in nursing who wish to develop additional qualified faculty in light of the existing nursing faculty shortage and the efforts by programs to increase enrollment.

Barbara L. Morvant, MN, RN
Executive Director
0703#036

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary and Department of Social Services Office of the Secretary

Community and Family Support System—Cash Subsidy
(LAC 48:I.Chapter 16)

The Department of Health and Hospitals, Office of the Secretary, Office of the Secretary and the Department of Social Services, Office of the Secretary proposes to amend the entire Chapter 161 of Part I concerning the Community and Family Support System Cash Subsidy as authorized by R.S. 28:821. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 378 of the 1989 Regular Session of the Louisiana Legislature and Act 1011 of the 1991 Regular Session of the Louisiana Legislature created and continued the Community and Family Support System (R.S. 28:821 et seq.). The original Rule was promulgated to implement the Cash Subsidy Program to provide a cash stipend to families of eligible children with severe and profound disabilities to offset the cost of keeping their children at home. This proposed amendment changes terminology for qualifying

exceptionalities to reflect current usage, recognizes Human Services Districts and Human Services Authorities (in addition to state program offices) and returns management of the program waiting lists to the administration of these regional governing agencies.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 11. Community and Family Support System

Chapter 161. Community and Family Support System

Cash Subsidy

§16101. Introduction

A. The first and primary natural environment for all people is the family. Children, regardless of the severity of their disability, need families and enduring relationships with adults in a nurturing home environment. As with all children, children with developmental disabilities need families and family relationships to develop to their fullest potential. Services for persons with developmental disabilities should be responsive to the needs of the individual and his family, rather than fitting the person into existing programs. Family supports are those supports that enable a family to keep their child with developmental disabilities at home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), repromulgated LR 33:

§16103. Definitions

Agency—the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities (OCDD) Regional Offices and Human Services Districts (Districts) and Human Services Authorities (Authorities) providing developmental disabilities services which shall administer the cash subsidy program for the exceptionalities of developmental delay for children between the ages of 3 through 8 years, autism, mental disability/severe, mental disability/profound, deaf-blind (deaf and blind), traumatic brain injury, multiple disabilities, other health impairment and orthopedic impairment, the Office of Mental Health (OMH) and Districts and Authorities providing mental health services which shall administer the cash subsidy program for the exceptionality, emotional disturbance.

Appropriate Documentation for Exceptionalities Served by the OCDD and Districts and Authorities Providing Developmental Disabilities Services—the most recent report, current within a year, which demonstrates parental participation with the Louisiana State Department of Education in development of specialized educational services and/or authorization of specialized educational settings for children with special needs. No evaluation or assessment can be accepted into consideration for eligibility determination unless incorporated into the report of exceptionality generated through the local school system. Only documentation that is current within a year can be accepted into consideration for eligibility determination. Appropriate documentation includes: the Pupil Appraisal Evaluation (for infants and toddlers, this may be called a Multidisciplinary Evaluation for Part C Services); the Individualized Education Plan (IEP); an approved home study plan; or, the Individual Family Service Plan (IFSP).

Appropriate Documentation for the Exceptionality served by the OMH and Districts and Authorities Providing Mental Health Services—the most recent report, current within a year, which demonstrates parental participation with the Louisiana State Department of Education in development of specialized educational services and/or authorization of specialized educational settings for children with special needs. Appropriate documents includes: the Pupil Appraisal Evaluation or the Individualized Education Plan (IEP), current within a year; or, evidence of an Interagency Service Coordination Process; or, a certification from a licensed mental health professional that the child meets the Department of Education's criteria for emotional disturbance; or, a current treatment plan from a licensed community mental health center.

Cash Subsidy—a monetary payment to eligible families of children with severe or profound developmental disabilities to offset the costs of keeping their child at home.

Child—an individual under the age of 18.

Developmental Disability—defined in accordance with the Developmental Disability Law at R.S. 28:451.2(12).

Licensed Mental Health Professional—a person credentialed to provide mental health services by a professional board established and approved by the state of Louisiana, including those boards which examine physicians (psychiatrists), psychologists, social workers, counselors, nurse practitioners, etc.

Qualifying Exceptionality—only the following exceptionalities identified through the Department of Education's Evaluation Process may be considered for the cash subsidy from the OCDD and Districts and Authorities providing developmental disabilities services: autism, deaf-blindness (deaf and blind), mental disability/severe, mental disability/profound, multiple disabilities, orthopedic impairment, other health impairment, traumatic brain injury, and developmentally delayed for children between the ages of 3 through 8 years; other exceptionalities listed through that process are not eligible for participation in the cash subsidy program except that the exceptionality, emotional disturbance may be considered for the cash subsidy from the OMH and Districts and Authorities providing mental health services.

Responsible Care Giver—a child's natural or adoptive mother or father or the person who is responsible for the primary care and management of the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:

§16105. Application Process

A. Applications for cash subsidy will be accepted by mail only and only in the OCDD Regional Office or OMH or district or authority providing developmental disability or mental health services in which the child resides. There is no closing date for accepting applications.

B. The responsible care giver is responsible for completing the application and submission of appropriate documentation of a qualifying exceptionality. The responsible care giver is responsible for all aspects of the

application process and for maintaining eligibility of their child.

C. To be complete, the documentation listed in §16103 which identifies a qualifying exceptionality must accompany the application for the cash subsidy and the application must be signed by the responsible care giver and received by the appropriate agency through the mail.

D. Applications for the cash subsidy shall be screened at the point of initial application to determine whether the child has a qualifying exceptionality and the child is appropriately served by the agency to ensure that applications are routed to the appropriate agency.

E. Only complete applications will be placed on the waiting list for eligibility determination with a post mark date of application of the envelope containing the complete application. Applications that are not complete will be returned to the responsible care giver with instructions on how to complete the application.

F. Applications will be maintained on the waiting list by date/time order of application, only in the region in which the child lives; no child may be placed on a waiting list or receive a cash subsidy from more than one region or agency.

G. Responsible care givers will receive confirmation of the date of receipt of the initial completed application and of their post marked date of application on the waiting list for eligibility determination, and annually thereafter.

H. A re-application can be submitted at any time a cash subsidy is terminated for any reason other than exceeding the eligible age for participation in the cash subsidy program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1020 (May 2002), LR 33:

§16107. Determining Children Eligible for the Cash Subsidy

A. In all cases, the exceptionality reported on the most current, current within a year, appropriate documentation (§16103) shall be used to make a determination of eligibility for the cash subsidy program.

B. Only evaluations reported through the Pupil Appraisal process will be accepted for consideration for exceptionalities served by the OCDD, OMH, or Districts or Authorities providing developmental disabilities services; such evaluations shall be considered ~~if~~ when reported through that process.

C. Children must be involved in an educational setting approved by the local educational agency; documentation of such approval must be received on an annual basis.

D. Children must meet the criteria for developmental disability and severity of exceptionality, as appropriate, to be eligible to participate in the cash subsidy program through the OCDD or District or Authority providing developmental disabilities services.

1. If a child is classified with the following primary or secondary exceptionalities, the child is eligible for the cash subsidy from the OCDD or District or Authority providing developmental disabilities services without a screening of

the severity of their exceptionality: autism, deaf-blindness (deaf and blind), mental disability/severe, mental disability/profound and multiple disabilities.

2. If a child is classified with the following primary or secondary exceptionalities, the child shall be screened by the OCDD or district or authority providing developmental disabilities services to determine whether they meet the severity criteria specific to their exceptionality: developmental delay for children between the ages of 3 through 8 years, orthopedic impairment, other health impaired, and traumatic brain injury. Only children who meet the criteria for severity of exceptionality shall be eligible to receive the cash subsidy.

E. If a child is classified with a primary or secondary exceptionality of emotional disturbance or presents other appropriate documentation that identifies an emotional disturbance, the child shall be screened by the OMH or district or authority providing mental health services to determine whether they meet the severity criteria specific to that exceptionality to be eligible to receive the cash subsidy.

F. Children who are adopted are eligible to participate in the cash subsidy program, including families who are receiving a specialized adoption subsidy; families who have more than one child who is eligible to participate in the cash subsidy program will be eligible for the cash subsidy amount for each child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:863 (July 1997), LR 28:1020 (May 2002), LR 33:

§16109. Children Ineligible for the Cash Subsidy

A. These children cannot participate in the cash subsidy program:

1. children living in subsidized out-of-home settings such as state-funded foster care or specialized foster care;

2. children living and/or attending schools outside the state of Louisiana; and

3. children in residence at the Louisiana School for the Deaf and the Louisiana School for the Visually Impaired.

B. Any removal of the cash subsidy recipient from the home of the responsible care giver that exceeds 30 days may be considered an out-of-home placement, except that acute care hospitalization does not disqualify a child, and psychiatric hospitalizations of up to 90 days are not automatically considered out-of-home placements. With appropriate documentation, the responsible agency shall make an individual assessment of the continuation of the cash subsidy in light of family situation and circumstances.

C. It will be the responsibility of the responsible care giver to notify the agency when a child is removed from the home; failure to notify the responsible agency of such removal shall be potential grounds for termination of the cash subsidy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:187 (February 1992), amended LR 23:863 (July 1997), LR 28:1021 (May 2002), LR 33:

§16111. Eligibility Determination

A. The OCDD Regional Offices and the OMH or Districts or Authorities providing developmental disabilities or mental health services shall be responsible for determination of eligibility of all applicants for the cash subsidy for which they have responsibility.

B. An initial determination for eligibility for the cash subsidy will be made at the time that a slot becomes available; if receiving the cash subsidy, an annual determination of eligibility shall be made.

C. At any time a responsible care giver cannot provide adequate and appropriate documentation of a qualifying exceptionality, the responsible care giver may request the local school agency to re-evaluate the child's exceptionality.

1. If the request for re-evaluation occurs at the initial determination of eligibility, the eligibility determination process will be held open for the period of re-evaluation, plus 10 working days. If the child can then be determined to be eligible, the cash subsidy will begin in the month that the next slot becomes available.

2. If the request for re-evaluation occurs at the annual determination of eligibility, the cash subsidy will be discontinued until the re-evaluation becomes available, plus 10 working days. If the child can then be determined to be eligible, the cash subsidy will resume in the month when the determination is made.

D. The OCDD Regional Offices and the OMH and Districts and Authorities providing developmental disabilities or mental health services shall be responsible to maintain a waiting list of all cash subsidy applicants to the agency according to their post marked date of application to ensure that applicants for the cash subsidy program are not receiving the cash subsidy from other agencies. Cash subsidy opportunities will be offered to applicants by date/time order of application (first come, first serve).

E. There shall be no financial criteria for eligibility for the cash subsidy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:187 (February 1992), amended LR 23:863 (July 1997), LR 28:1021 (May 2002), LR 33:

§16113. Payment Guidelines

A. The amount of the cash subsidy shall be \$258 monthly to families of eligible children with severe and profound disabilities to off-set the cost of keeping their child at home; families will not be required to document how the subsidy is used.

B. The termination date for a child attaining age 18 years shall be the last day of the birthday month.

C. If for any reason a recipient receives excess payment, repayment of that amount will be requested. Failure to cooperate with repayment will be referred to DHH for recoupment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department

of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:864 (July 1997), LR 28:1021 (May 2002), LR 33:

§16115. Terminations

A. Reasons for termination may include the following: child moves out of state; family requests termination of the cash subsidy payment; child is placed into a subsidized living setting or attends school away from the home or in another state; death of the child; fraud; theft; termination or limitation of funding of the program; failure to comply with the provisions of the individual agreement or the cash subsidy program including the requirement to maintain quarterly contact with the agency administering the cash subsidy; child's exceptionality or degree of severity no longer meets eligibility criteria; child attains age 18 years; and, responsible care giver fails to maintain the child in an approved educational program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:864 (July 1997), LR 28:1022 (May 2002), LR 33:

§16117. Ongoing Monitoring

A. The responsible care giver is responsible to maintain contact with the agency administering the cash subsidy at least every 90 days to verify that the child is in the home and the conditions of the individual agreement and cash subsidy program are being met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:865 (July 1997), LR 28:1022 (May 2002), LR 33:

§16119. Appeals

A. All persons receiving an eligibility determination shall have access to the Department of Health and Hospital's appeal process and shall be informed of their right of appeal and the process to make an appeal at the point of initial eligibility determination and at termination of a cash subsidy for any reason other than exceeding the eligible age for participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:865 (July 1997), LR 28:1022 (May 2002), LR 33:

§16121. Program Evaluation

A. An annual external evaluation based on participant satisfaction with the program and performance may be completed by the responsible program office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:865 (July 1997), LR 28:1022 (May 2002), LR 33:

Family Impact Statement

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 effect on family functioning, stability or autonomy as described in R.S. 49:972 as it will afford applicants and participants increased access and ease of interaction with the regional administrative agencies.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is the person responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, April 24, 2007 at 9:30 a.m. in Room 188, 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, DHH
and
Ann S. Williamson
Secretary, DSS

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Community and Family Support System—Cash Subsidy**

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

The implementation of this proposed rule will have no fiscal impact to the state other than cost of promulgation for FY 2006-07. It is anticipated that \$1,768 from the State General Fund will be expended in FY 2006-07 for the state's administrative expense for promulgation of this proposed rule and final rule. The agency has sufficient funds to implement this rule.

This rulemaking proposes an amendment of the Rule establishing a cash subsidy program for eligible children with severe developmental disabilities (LAC 48.I.16103-16121). The proposed amendment establishes regional administration of the program and waiting lists for participation in the cash subsidy program by the Office of Citizens with Developmental Disabilities and the Office of Mental Health and Districts and Authorities providing developmental disabilities and mental health services. Changes in terminology are made to comply with current usage. (R.S. 28:821 et seq.)

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

The implementation of this proposed rule will not affect revenue collections for state or local governmental units.

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

This rule will have a positive impact on families by affording applicants and participants increased access and ease of interaction with the regional administrative agency (versus control of program activities from the OCDD Central Office).

There are no costs for directly affected persons or non-governmental groups associated with this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Kathy H. Kliebert
Assistant Secretary
0703#045

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

CommunityCARE Program
Immunization Pay-for-Performance Initiative
(LAC 50:I.2915)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:I.2915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing compiled the previously promulgated Rules governing the CommunityCARE Program to establish LAC 50:I.Chapter 29 (*Louisiana Register*, Volume 29, Number 6). The CommunityCARE Program provides a medical home for designated Medicaid recipients by linking the recipient to a primary care provider (PCP) selected by the recipient. The bureau promulgated an Emergency Rule to amend the provisions governing the CommunityCARE Program in order to implement an immunization pay-for-performance initiative fee based on the provider's participation in the Louisiana Immunization Network for Kids Statewide and performance in achieving immunization benchmarks (*Louisiana Register*, Volume 32, Number 7). This proposed Rule is being promulgated to continue the provisions of the July 1, 2006 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Medicaid Managed Care

Chapter 29. CommunityCARE

§2915. Immunization Pay-for-Performance

A. A supplemental payment will be implemented as an incentive to promote the immunization of Medicaid eligible children.

1. Qualification for the supplemental payment shall be based on the CommunityCARE primary care provider's participation in Vaccine for Children Program (VFC) and the Louisiana Immunization Network for Kids Statewide (LINKS), and performance in achieving state-established immunization benchmarks for children being up to date with recommended immunizations.

B. Supplemental Payment Calculations. Payments will be calculated on a monthly basis utilizing only the data that is in the LINKS immunization registry at the time of the monthly calculation.

C. Supplemental Payment Levels. Supplemental payments will be made to CommunityCARE PCPs or subcontractors of KIDMED services who utilize VFC and LINKS.

1. Supplemental payments shall be made according to the following levels:

a. \$0.25 per Medicaid recipient under the age of 21 linked to the CommunityCARE PCP with less than 75 percent of the recipients 24 months old and up-to-date with the appropriate vaccine series;

b. \$0.50 per Medicaid recipient under the age of 21 linked to the CommunityCARE PCP with 75 percent to 89 percent of the recipients 24 months old and up-to-date with the appropriate vaccine series; and

c. \$1 per Medicaid recipient under the age of 21 linked to the CommunityCARE PCP with 90 percent or more of the recipients 24 months old and up-to-date with the appropriate vaccine series.

2. Providers participating in this initiative shall only qualify for a single level of payment.

3. Supplemental payments will be issued on a quarterly basis.

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 33:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 as it will encourage provider participation in the Medicaid Program and increase children's access to immunizations.

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, April 24, 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: CommunityCARE Program Immunization Pay-for-Performance Initiative

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 \$314,047 for FY 06-07, \$301,364 for FY 07-08, and \$310,405 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 \$722,963 for FY 06-07, \$766,546 for FY 07-08, and \$789,542 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 July 1, 2006 Emergency Rule, proposes to amend the provisions governing the CommunityCARE Program in order to implement a supplemental payment for an immunization pay-for-performance initiative based on the provider's participation in the Vaccines for Children (VFC) Program and the Louisiana Immunization Network for Kids Statewide (LINKS) immunization registry (approximately 250,000 units of service per year), and performance in achieving immunization benchmarks. It is anticipated that implementation of this proposed rule will increase program expenditures for CommunityCARE services by approximately \$1,036,806 for FY 06-07 and \$1,067,910 for FY 07-08 and \$1,099,947 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
0703#074

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
Dental Program
Reimbursement Rate Increase
(LAC 50:XV.6901, 6903 and 6905)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:XV.6903 and to adopt §§6901 and 6905 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 dental services under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Reimbursement for these services is a flat fee established by the Bureau minus the amount that any third party coverage would pay (*Louisiana Register*, Volume 29, Number 2). Additional funds were allocated by the legislature during the 2003 and 2004 Regular Sessions and the bureau subsequently increased the reimbursement rate for certain dental procedures and established coverage for additional procedures (*Louisiana Register*, Volume 30,

Number 2 and Volume 31, Number 3). 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 certain dental procedures and establish coverage for additional procedures (*Louisiana Register*, Volume 32, Number 11). This proposed Rule is being promulgated to continue the provisions of the November 1, 2006 Emergency Rule and to clarify the payment methodology for EPSDT dental services.

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 dental 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 69. Dental

§6901. General Provisions

A. Medicaid recipients who are under 21 years of age are eligible to receive services covered by the EPSDT Dental Program.

B. Provider participation is limited to those dentists who are duly licensed and authorized to practice dentistry in the state of Louisiana and who are enrolled in the Medicaid Program as a dental provider.

C. Prior authorization is required for certain dental services covered in the EPSDT Dental Program. Services requiring prior authorization are identified in the Dental Services Manual, EPSDT Dental Program Fee Schedule.

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 33:

§6903. Covered Services

A. Effective November 1, 2006, the following dental procedures are included in the service package for coverage under the EPSDT Dental Program:

1. prefabricated stainless steel crown with resin window; and

2. appliance removal (not by the dentist who placed the appliance), including removal of archbar.

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 29:175 (February 2003), amended LR 30:252 (February 2004), LR 31:667 (March 2005), LR 33:

§6905. Reimbursement

A. Services covered in the EPSDT Dental Program shall be reimbursed at the lower of either:

1. the dentist's billed charges minus any third party coverage; or

2. the state's established schedule of fees, which is developed in consultation with the Louisiana Dental

Association and the Medicaid dental consultants, minus any third party coverage.

B. Effective for dates of service on and after November 1, 2006, the reimbursement fees for:

1. comprehensive orthodontic treatment services are increased to the 2006 National Dental Advisory Service Comprehensive Fee Report 70th Percentile rate;

2. Resin-based Composite Crown, Anterior and Prefabricated Resin Crown are increased by 30 percent of the fees on file in the EPSDT Dental Program Fee Schedule as of October 31, 2006; and

3. all other dental services are increased by 25 percent of the fees on file in the EPSDT Dental Program Fee Schedule as of October 31, 2006 unless otherwise stated in this Chapter.

C. The following dental services are excluded from the rate increase:

1. Complete Denture, Maxillary;

2. Complete Denture, Mandibular;

3. Immediate Denture, Maxillary;

4. Immediate Denture, Mandibular;

5. Maxillary Partial Denture, Resin Base (including clasps);

6. Mandibular Partial Denture, Resin Base (including clasps);

7. Reline Complete Maxillary Denture (Laboratory);

8. Reline Complete Mandibular Denture (Laboratory);

9. Reline Maxillary Partial Denture (Laboratory);

10. Reline Mandibular Partial Denture (Laboratory);

11. Hospital Call; and

12. Behavior Management, By Report.

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 33:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, April 24, 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: Early and Periodic Screening, Diagnosis and Treatment—Dental Program 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 \$4,089,770 for FY 06-07, \$5,888,530 for FY 07-08, and \$6,065,185 for FY 08-09. It is anticipated that \$408 (\$204 SGF

and \$204 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 \$9,416,471 for FY 06-07, \$14,977,982 for FY 07-08, and \$15,427,322 for FY 08-09. It is anticipated that \$204 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 November 1, 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 and to clarify the reimbursement methodology for dental services (approximately 1,400,000 units of service per year). It is anticipated that implementation of this proposed rule will increase program expenditures for EPSDT dental services by approximately \$13,505,833 for FY 06-07 and \$20,866,512 for FY 07-08 and \$21,492,507 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
0703#075

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission**

**General Requirements
(LAC 55:IX.Chapters 1 and 15)**

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, R.S. 40:1846 and R.S. 3:1354, relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gases and anhydrous ammonia, respectively, notice is hereby given that the commission proposes to amend 43 existing rules and adoption of two new rules. The proposed changes and new rules have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

The proposed changes clarify the wording of 43 different Sections but will not change in a substantial way the intent of the current rules. The changes will allow the commission to place applicants for permits into business without any delay once commission rules are met, will allow an additional way for permit holders to meet the proof of insurance requirements, exempts D.O.T containers from storage capacity requirements, exempts systems with D.O.T. containers from the two stage regulator requirements, and clarifies when pressure tests, leak checks, and inspections of systems are required and lowers the time and pressure requirements of these tests but maintains all safety requirements in current law.

The proposed two new rule adoptions will provide a new definition and require mandatory training for most of the industry personnel who have certificates of competency. The mandatory training will supplant much of the voluntary training that has been done by a majority of the permit holders but will require all permit holders to train their employees a given amount of time periodically. This training time must be documented to the commission in order to maintain certificates of competency for their employees. This training was suggested by the regulated industry and embraced by the commission.

The proposed changes and new adoptions comply with the statutory authority granted the commission under R.S.40:1846 and R.S.3:1354.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

§103. Definitions

A. ...

* * *

Leak Check—operation performed on a complete gas piping system and connected equipment prior to placing it into operation following initial installation and pressure testing or interruption of gas supply or out-of-gas situation or first time service of a new customer to verify that the system does not leak.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:459 (March 1998), LR 29:2508 (November 2003), LR 31:2556 (October 2005), LR 33:

§105. Applications

A. Any person, firm, or corporation desiring to enter the liquefied petroleum gas business in the state of Louisiana must file formal application for a permit or registration with the Liquefied Petroleum Gas Commission. In the case of Class VI and Class VIII permits a formal application for a permit must be filed for each location. All other classes of permits and registrations require only one formal application for the permit or registration. These applications for permits or registrations will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits or registrations at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified, except in the cases of Class VI-X, VII-E, and R-1, R-2 registrations, where appearance is waived. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under

extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

B ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 24:460 (March 1998), LR 25:1262 (July 1999), LR 29:2509 (November 2003), LR 31:2567 (October 2005), LR 33:

§107. Requirements

A. - A.1. ...

2. Formal application for a permit or registration must be submitted to the office of the director.

3. Must have on file in the office of the director, proof of insurance, issued by a Louisiana licensed agent, in the minimum sum of \$1,000,000, in the classes of insurance as required by the commission. This proof of insurance can be a copy of the policy with an endorsement that the insurance company will give at least 10 days notice to the commission before cancellation, or on a commission proprietary certificate of insurance, showing kinds and amount in force, with certificate bearing the clause that in the event the insurance company intends to cancel, the insurance company will notify the director of the Liquefied Petroleum Gas Commission 10 days prior to the date of cancellation or a binder of insurance coverage, within date, will be acceptable as proof of insurance until the policy or proprietary certificate of insurance can be issued. The commission will provide the proprietary certificate of insurance form on its public web site for downloading or will provide copies of the proprietary certificate of insurance form via facsimile or via U. S. mail upon request.

3.a. - 8.b. ...

c. The following shall be mandatory training requirements in order to maintain a certificate of competency in Louisiana.

i. New Hires

(a). Certified Employee Training Program (CETP) shall be the basis of all new hire training, which is not grandfathered.

(b). In addition to the regular Liquefied Petroleum Gas Commission competency test which is required prior to beginning work unsupervised, all certificates of competency holders of Class 1 permit holders with certificates of competency with the following names, delivery truck driver, installation and service, and delivery truck driver/limited service must pass the CETP Basic Test within one year of their hire date. Up to two years provisional certificates of competency may be issued by the commission. Other commission certificates of competency, namely serviceman recreational vehicles, transport truck driver, motor fuel and carburetion installation, welding and metal working industry, manager exam, cylinder delivery truck driver, cylinder re-qualification, and all combined certificates containing the immediate before named certificates of competency are exempt from this provision.

(c). Training may be given by the individual companies or may be given by an outside firm and individual companies may use any method they choose to train their employees on the CETP Basic Program. This may include, but is not limited to, e-learning, CDs, manuals, classroom instruction or any combination thereof.

(d). The CETP Basis Test must be proctored by a licensed proctor.

(e). Tests will be available not less than two times each year in each commission inspector's area in a centralized location.

(f). All commission inspectors shall be licensed proctors with no costs being charged for their proctoring of tests.

(g). Proof of a passing grade (certification) must be sent to the Liquefied Petroleum Gas Commission by the employer before the second renewal period of the employee's certificate of competency. Failure to do so will require that the individual's certificate of competency be revoked.

(h). Individuals who have held a certificate of competency with the commission five years or longer are exempt from the CETP Basic new hire provision, however, they must meet the continuing education training provisions.

ii. Continuing Education

(a). Individuals with a commission certificate of competency in the following test names: transfer and cylinder filling operator, delivery truck driver, installation and service, welding and metal working industry, cylinder delivery truck driver, delivery truck driver/limited service, and all combined certificates containing any of the immediate before named certificates of competency shall have a minimum of two hours of approved continuing education every three years in order to maintain their certificates of competency.

(b). This training shall include training that is most tailored for the particular functions the employee does on a normal and routine basis. This may include CETP modular training classes, defensive driving classes, equipment certification classes, pipe sizing classes, leak check classes and other similar training pre-approved and assigned credit time by the Liquefied Petroleum Gas Commission.

(c). All training approved by the commission must be in objective format such as written, video with audio, or audio only. Each training class will be assigned credit time value for meeting time requirements of this Section.

(d). This training may be done in-house by the dealer, by out-side sources, or by commission inspectors.

(e). A Liquefied Petroleum Gas Commission inspector will be responsible for administering continuing education training tests in his area. These tests may be administered at centralized group locations or at dealer locations within the inspector's area. The inspector shall determine passing either through oral exam or written exam on the pre-approved subject matter.

iii. Effective Time of Provisions of §107.A.8.c

(a). Shall be upon effective date of enactment of this Section.

9. - 10. ...

11. Applicants for change of name must deposit a filing fee of \$25 with a formal application for a name change. The office of the director will administratively grant the name change after all commission requirements are met. The commission will ratify the name change at the next subsequent after which a minimum of 20 days have elapsed since the administrative granting of the name change. A representative of the new firm or corporation will be required to be present when the application is ratified by the commission, except in the cases of Class VI-X, VII-E, and R-1 and R-2 registrations, when appearance is waived. All certificates of competency must be changed to new name, except Class VI-X which does not require certificates of competency.

12. - 15. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000), LR 27:2256 (December 2001), LR 29:2509 (November 2003), LR 31:2567 (October 2005), LR 33:

§113. Classes of Permits and Registrations

A. - A.1. ...

a. Must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

b. - f. ...

2. Class II. Holders of these permits may install and service liquefied petroleum gas containers, piping, and appliances but shall not sell nor deliver gas with this permit. This class will also apply to the installation and service of liquefied petroleum gas containers, piping, and appliances on mobile homes, motor homes, travel trailers, or any other recreational vehicles.

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

b. Louisiana manufacturers and dealers of mobile homes, motor homes, travel trailers, or any recreational vehicles shall comply with all state and federal safety standards and perform all safety tests on mobile homes, motor homes, travel trailers, or any recreational vehicles using liquefied petroleum gas.

c. Upon delivery of a mobile home, motor home, travel trailer, or any other recreational vehicle, new or used, the required installation report and inspection and testing of any liquefied petroleum gas system and appliances shall be performed by the dealer or any entity performing functions as a dealer, using liquefied petroleum gas in the system. An installation report properly completed and signed by the customer or his/her authorized representative must be sent to the director of the Liquefied Petroleum Gas Commission

verifying that the tests were performed and that the test was eye witnessed by the customer or his/her authorized representative.

d. The mobile home or recreational vehicle dealer or entity performing functions as a dealer must have a permit with this commission and is responsible to this commission to make the required installation report, perform the required inspection and safety tests, or make arrangements for it to be made by a qualified permit holder.

2.e. - 3. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

3.b. - 4. ...

a. Must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

4.b. - 5. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering manufacturers and contractors liability.

5.b. - 6. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products liability.

6.b. - 7. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products liability.

7.b. - 8. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering automobile liability.

8.b. - 9. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering automobile liability.

9.b. - 10. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products, manufacturers and contractors, and automobile liability.

10.b. - 11.a.

b. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products liability.

11.c. - 12. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering manufacturers and contractors liability.

12.b. - 13. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products and manufacturers and contractors liability.

b. - c.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 3:315 (July 1977), amended LR 7:633 (December 1981), LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 12:841 (December 1986), LR 15:855 (October 1989), LR 16:1063 (December 1990), LR 19:904 (July 1993), LR 20:1400 (December 1994), LR 21:704 (July 1995), LR 24:464 (March 1998), LR 25:2411 (December 1999), LR 29:2509 (November 2003), LR 33:

Subchapter F. Tank Trucks, Semi-Trailers and Trailers

§167. "Out-of-Gas Customers" or Interruption of Service Procedure

A. When a delivery of gas is made to any on-site container which is out of gas or liquefied petroleum gas service was interrupted, the servicing dealer shall follow the following procedure.

1. When "out-of-gas customer" is not present and the container is serviced:

- a. shut off the container service valve;
- b. place a tag on the container and the residence, the building, or the equipment the container services indicating the container is out-of-service. The tag shall inform the gas customer to contact a liquefied petroleum gas dealer or other qualified agency to perform a leak check or test on the system as required before turning on the container. Further action is the responsibility of the customer. If the customer places the system back into service without the required test, he must assume the liability for the system.

2. When "out-of-gas customer" is present and the container is serviced:

- a. shut off the container service valve;
- b. inform the gas customer the container is out of service and a qualified agency must perform a leak check or test on the system as required before turning on the container. Further action is the responsibility of the customer. If the customer places the system back into service without the required test, he must assume liability for the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:467 (March 1998), LR 33:

Subchapter G. Systems Utilizing ASME and D.O.T. Containers

§171. Storage Capacity Requirements

A. The minimum capacity of above ground ASME storage containers shall be 100 gallon tank capacity for each 100,000 BTU appliance load. Tankless water heaters shall be rated at 50 percent of their input rating when calculating appliance load. Exception: D.O.T. Containers of 4 lbs. though 100 lbs. capacity are exempt from this requirement when connected to small portable appliances or outdoor cooking appliances with input ratings of 100,000 btu/hr. or less. Other exceptions to this rule must be approved by the director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), LR 33:

§173. Regulator Installation

A. A two-stage regulator or an integral two-stage regulator shall be required on all fixed piping systems that serve 1/2 psi appliance systems (11 in. w.c.). Single-stage regulators shall not be installed in fixed piping systems after June 30, 1997. Other requirements of NFPA 58, 1995 Edition, Section 3-2.6, as well as exceptions are applicable in Louisiana. Two-stage regulation shall not be retroactive to June 30, 1997. Exception: Not applicable to D.O.T. containers connected to small portable appliances and outdoor cooking appliances with input ratings of 100,000 btu/hr. or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:468 (March 1998), LR 33:

§175. Pressure Tests, Leak Checks and Inspections Required

A. Pressure Tests

1. Shall be performed on all new piping systems and on piping systems that has been modified or had new piping added.

2. The length of time of the pressure test shall be not less than 1/2 hour for each 500 cubic feet of pipe volume or fraction thereof, except when pressure testing less than 10 cubic feet of pipe volume or a single family dwelling, the duration of the test may be reduced to 10 minutes.

3. The test pressure of the Pressure Test shall be 1 1/2 times the proposed operating pressure of the system but in no case less than 3 psig.

4. There shall be no gain or loss in pressure during the test. If leakage is indicated, the system shall be repaired and a new pressure test performed before placing in service.

5. The pressure source shall be isolated before the test.

6. No underground piping shall be covered until after inspection and the pressure test are made.

7. Pressure tests shall be documented in the dealer's files or filed with office of the director of the commission.

B. Leak Checks

1. Low Pressure Leak Checks

a. Shall be used on systems that receive gas at pressures of 1/2 psig or less.

b. Shall be performed the first time a tank, piping system and appliances are connected for use.

c. Shall be performed in any suspected leak situation.

d. Shall be performed the first-time service of a new customer.

e. Shall be performed in all out-of-gas and interruption of service situations. A High Pressure Leak Check will be permitted in lieu of the Low Pressure Leak Check if the dealer has documented in his files a Low Pressure Leak Check within the past twelve months for that customer or has filed such documentation with the office of the director within the past twelve months for that customer.

f. The length of time for this test shall be 3 minutes.

g. The test pressure for this test shall be 9 inches + or - 1/2 inch of water column or equivalent.

h. Low Pressure Leak Checks shall be documented in the dealer's files or filed with the office of the director of the commission.

i. This leak check shall include all regulators, including appliance regulators and control valves in the system. Accordingly each individual equipment shutoff valve should be supplying pressure to its appliance for this leak check. This leak check will prove the integrity of the 100 percent pilot shutoff of each gas valve so equipped, so the manual gas cock of each gas valve incorporating a 100 percent pilot shutoff should be in the "on" position. Pilots not incorporating a 100 percent pilot shutoff valve and all manual gas valves not incorporating safety shutoff systems are to be placed in the "off" position prior to this leak check.

j. When leakage is indicated, repairs must be made and a new leak check performed before placing the system back into service.

k. The following protocol shall be used for performing this leak check. Insert a water manometer or equivalent gauge into the system downstream of the final stage regulator, pressurizing the system with either fuel gas or another approved test medium to full operating pressure, close pressure service valve, observe gauge reading, lockup, should be between 10-14 inches of water column or equivalent, then release enough test medium through a range burner or other suitable means to drop the system pressure to 9 inches + or -1/2 inch in water column or equivalent. This ensures that all regulators are unlocked and the entire system is communicating to the gauging device. There shall be no loss or gain in pressure for a period of three minutes.

2. High Pressure Leak Checks

a. This leak check can be used on a system that receives gas at 1/2 psig or less, when a Low Pressure Leak Check has been performed and documented within the past twelve months by the dealer for that system.

b. This leak check can be used on systems that receive gas at pressures greater than 1/2 psig but less than tank pressure.

c. The length of time for this leak check is 3 minutes.

d. The test pressure for this leak check is 10 pounds below tank pressure.

e. These tests shall be documented in the dealer's files or filed with the office of the director.

f. When leakage is indicated, repairs shall be made and a new leak check performed before placing the system into service.

g. The following protocol shall be used for this leak check. By inserting a pressure gauge between the container gas shutoff valve and the first stage regulator in the system, admitting full container pressure to the system and then closing the container shutoff valve. Enough gas should then be released to lower the pressure reading by 10 psi. System should then be allowed to stand for 3 minutes without an increase or decrease in the pressure gauge reading. This method will indicate if there is an open line, open valve, a standing pilot open or leak anywhere in the system and can be used only under the conditions stated in §175.B.2.a of this Section.

3. In out-of-gas or interruption of service situations and a leak check can not be performed by the dealer, the procedure in §167 of this Code shall be used or the container can not be serviced.

C. Inspections

1. Inspections shall be performed any time a pressure test, a high pressure leak check, or a low pressure leak check is performed. Exception: if the dealer has documented in his files an inspection of the system within the past 12 months for that system or has filed such documentation with the office of the director within the past 12 months for that system, no inspection is required.

2. Inspection shall include installation workmanship, all visible piping materials, connectors, appliances and other materials to ensure all materials, connectors, valves and appliances are approved for liquefied petroleum gas use.

3. Inspection shall include proper appliance installation and proper flame performance characteristics for the appliances.

4. Any materials, connectors, valves, appliances, or installation workmanship not in compliance with the codes shall be repaired, replaced, or disconnected.

5. Documentation that the inspection was performed shall be made by the dealer and retained in his files or filed with the office of the director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), LR 24:468 (March 1998), LR 24:2312 (December 1998), LR 29:2510 (November 2003), LR 33:

Chapter 15. Sale, Storage, Transportation and Handling of Anhydrous Ammonia

NOTE: This Chapter applies specifically to the sale, storage, handling, and transportation of anhydrous ammonia over Louisiana highways and the sale, construction and use of anhydrous ammonia containers and equipment.

Subchapter A. New Dealers

§1505. Applications

A. Any person, firm, or corporation desiring to enter the anhydrous ammonia business in the state of Louisiana must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:898 (July 1993), LR 33:

§1507. Requirements

A. - A.1. ...

2. Formal application for a permit must be submitted to the office of the director.

3. Must have on file in the office of the director proof of insurance, issued by a Louisiana licensed agent, in the minimum sum of \$1,000,000, in the classes of insurance as required by the commission. This proof of insurance can be a copy of the policy with an endorsement that the insurance company will give at least 10 days notice to the commission before cancellation, or on a commission proprietary certificate of insurance, showing kinds and amount in force, with certificate bearing the clause that in the event the insurance company intends to cancel, the insurance company will notify the director of the Liquefied Petroleum Gas Commission 10 days prior to the date of cancellation, or a binder of insurance coverage, within date, will be acceptable as proof of insurance until the policy or proprietary certificate of insurance can be issued. The commission will provide the proprietary certificate of insurance form on its public web site for downloading or will provide copies of the proprietary certificate of insurance form via facsimile or via U. S. mail upon request.

4. - 10. ...

11. Applicants for change of name must deposit a filing fee of \$25 with a formal application for a name change. The office of the director will administratively grant the name change after all commission requirements are met. The commission will ratify the name change at the next subsequent commission meeting after which a minimum of 20 days have elapsed since the administrative granting of the name change. A representative of the new firm or corporation will be required to be present when the application is ratified by the commission. All certificates of competency must be changed to new name.

12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:898 (July 1993), LR 25:2413 (December 1999), amended LR 27:423 (March 2001), repromulgated LR 27:565 (April 2001), LR 33:

§1513. Classes of Permits

A. The Liquefied Petroleum Gas Commission will issue upon application the following classes of permits:

1. Class A1. Holders of these permits may enter any phase of the anhydrous ammonia business.

a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have

elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

b. ...

c. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

1.d. - 2. ...

2.a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request

b. ...

c. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products, manufacturers and contractors, and automobile liability.

2.d. - 3. ...

a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified. In no case will the applicant's supplier be the authorized representative. Only with special approval of the

commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request

b. ...

c. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products liability.

3.d. - 4....

a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is not required at the commission meeting when the application for a permit is ratified. The formal application form(s) will be furnished by the commission upon request.

b. ...

c. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products and automobile liability.

4.d. - 5. ...

a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

5.b. - c. ...

d. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 automobile liability.

5.e. - 6. ...

a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees,

qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is not required at the commission meeting when the application for a permit is ratified. The formal application form(s) will be furnished by the commission upon request.

b. - c. ...

d. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering automobile liability.

e. - j. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:899 (July 1993), LR 25:2413 (December 1999), amended LR 27:423 (March 2001), repromulgated LR 27:565 (April 2001), LR 33:

The commission will hold a public hearing April 19, 2007, 7919 Independence Blvd., Baton Rouge, LA, at 8:30 a.m. in regard to these changes and adoptions.

Written comments will be accepted through April 12, 2007 and should be sent to Charles M. Fuller at P.O. Box 66209, Baton Rouge, LA 70896. All interested persons will be afforded an opportunity to be heard at the public hearing. A preamble has not been prepared for the intended actions.

Charles M. Fuller
Director

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

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

There will be no implementation costs or savings to state or local governmental units. The proposed rule changes will affect forty-three rules by clarifying their intent but will not change in a substantial way any of the current rules.

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

There is estimated to be no effect 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)

There will be costs to the regulated community for training, testing, and continuing education, which is estimated to be \$54,793 in the first fiscal year (FY 07-08) and \$36,153 each fiscal year thereafter. There will be no economic benefit to any other person or non-governmental group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Charles M. Fuller
Director
0703#085

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
State Uniform Construction Code Council**

Third Party Providers (LAC 55:VI.905)

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730:22(C) and (D) and R.S. 40:1730.26(1) relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction Code Council hereby proposes to enact the following Rule which will establish Title 55:VI.905 of the Louisiana Administrative Code.

**Title 55
PUBLIC SAFETY**

Part VI. Uniform Construction Code

Chapter 9. Temporary Exemption to Certification Requirement

§905. Third Party Providers

A. Third party providers who are Louisiana licensed architects or engineers and who obtain a certificate of registration after January 1, 2007, shall be granted a provisional certificate for registration without certification by a recognized code organization for their specialty work only.

1. For purposes of this Section, specialty work shall be designated as follows:

- a. architects—building;
- b. civil engineers—building;
- c. electrical engineers—electrical;
- d. mechanical engineer—plumbing, fuel gas, and mechanical.

2. This provisional certificate shall expire on December 31, 2007. Thereafter, any third party provider renewing this Certification of Registration shall satisfy the certification requirement(s) as set forth in §703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, State Uniform Construction Code Council, 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 Rule. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments or requests for public hearing on this proposed Rule change to Curt McCarty at 7979 Independence Boulevard, Suite 106, Baton Rouge, LA 70806. Comments will be accepted through close of business April 10, 2007.

Jill P. Boudreaux
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Third Party Providers**

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

This rule will not result in an increase in costs or savings to local governmental units for those local governments that currently utilize code enforcement nor those that are trying to implement a code enforcement office. Generally any fees charged by a third party provider are borne by the contractor/builder and may pass through the jurisdiction. The proposed rule does not add any additional expenditures apart from or in addition to those that will result from the enactment of Act 12 of the 2005 First Extraordinary Session. Pursuant to that Act, the Department of Public Safety and Corrections has employed four (4) additional positions needed as staff for the Uniform Construction Code Council. The annual cost of these positions and associated expenses are estimated to be \$322,478 in FY 08, \$331,361 in FY 09, and \$340,601 in FY 10.

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 governmental units as the local government may impose necessary fees to implement building code enforcement pursuant to La R.S. 40:1730.32, to offset costs for implementing inspections.

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

No commercial or residential building may be constructed, altered or repaired until plans have been reviewed and the structure inspected for compliance with the Louisiana Uniform Construction Code. This rule is being adopted to further expand the number of individuals who are qualified, on a provisional basis, to perform code enforcement. There will be additional benefits to affected persons imposed by these rules, in that if they meet the qualifications of this rule, they will receive a fee for their services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment as the proposed rule applies to all qualified third party providers who meet the prerequisites.

Jill P. Boudreaux
Undersecretary
0703#064

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Income: Withholding Tax (LAC 61:I.1511)

Under authority of R.S. 47:112, R.S. 47:164, and R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1511 to address withholding of income tax at the source.

R.S. 47:164(D) provides that the collector may require persons having control, receipt, custody, disposal, or payment of amounts paid or payable to any person to deduct and withhold income tax payable from such person and to report and pay the tax to the collector. This proposed regulation will specify the persons who must withhold income tax, the rules that apply to such persons, and certain payments for which withholding at the source is required.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered

by the Secretary of Revenue

Chapter 15. Income: Withholding Tax

§1511. Withholding Tax at the Source

A. General Rules of Withholding

1. Requirement to Withhold Payments. Beginning with the calendar year 2008, a withholding agent must withhold and deposit tax at the applicable rate on the payment of an amount subject to withholding made to a payee.

2. Withholding Agent. For purposes of this Section, the term "withholding agent" means any person engaged in a trade or business or any activity entered into for profit that has the control, receipt, custody, disposal, or payment of an item of income subject to withholding. Any person who meets the definition of a withholding agent is required to deposit any tax withheld under R.S. 47:164 and this Section and to file withholding tax returns, except as provided in this Section. When more than one person qualifies as a withholding agent with respect to a single payment, only one tax is required to be withheld and deposited.

3. Failure to Withhold. If a withholding agent fails to withhold and deposit any tax as required under this Section, the secretary may seek payment of the tax from any person that is a withholding agent with respect to the amount required to be withheld. A withholding agent is not excused from the withholding requirement if another withholding agent fails to withhold and deposit the amount due.

4. Penalties for Failure to Withhold. A withholding agent is personally liable for the amounts required to be withheld under R.S. 47:164 and this Section. A withholding agent failing to properly withhold, remit, and file shall be subject to interest and penalties including those provided in R.S. 47:1601, 47:1602, 47:1604, 47:1604.1, and 47:1604.2.

5. Withholding Tax Return, Receipts for Payees, and Annual Reconciliation

a. A withholding agent must file with the secretary a calendar quarterly return in a form prescribed by the secretary together with the amount of tax withheld. Returns

and payments are due on or before the last day of the month following the close of the reporting period.

b. A withholding agent must furnish to the payee, in duplicate, prior to January 31 of the succeeding year, a written receipt in a form prescribed by the secretary. The receipt must set forth the name, address, and Louisiana account number of the payee and the withholding agent, the type of income subject to withholding, the amount of the income, and the amount of tax that has been withheld.

c. On or before the first business day following February 27 for the preceding calendar year, a withholding agent must file with the secretary an annual reconciliation return, in a form prescribed by the secretary, to which must be attached copies of the receipts required by this Paragraph to be furnished to the payees.

6. Withholding Agent not Liable to Payee. A withholding agent is indemnified against the claims and demands of any person for the amount of any tax it deducts and withholds in accordance with this Section and the provisions of R.S. 47:112 and R.S. 47:164. A withholding agent that withholds based on a reasonable belief that withholding is required is treated for purposes of this Paragraph as having withheld tax in accordance with the provisions of R.S. 47:112 and R.S. 47:164. This Paragraph does not apply to relieve a withholding agent from tax liability for failure to withhold.

7. Examples. The following examples illustrate the rules of this Paragraph:

Example 1. Tenant leases an office building located in this state from lessor for use in tenant's business. The terms of the lease require tenant to pay monthly rental of \$20,000 to lessor. Lessor, a nonresident of this state, hires manager to collect all rents received from tenants of the office building. Tenant and manager are withholding agents with respect to the rental payments paid for tenant's use of the office building. Only one withholding amount of \$400 (2 percent of \$20,000) is required on each \$20,000 rental payment. If tenant and manager fail to withhold and deposit tax on the rental payments, the Department of Revenue may seek payment from either tenant or manager.

Example 2. Lessee is an individual who leases an apartment from Lessor, a nonresident of this state, for lessee's personal use. Under the terms of the lease, lessee is required to pay \$600 per month in rentals to lessor. Because the rental payment is not made in connection with the conduct of a trade or business or an activity entered into for profit by lessee, lessee is not a withholding agent. Thus, lessee is not required to withhold any amount when lessee makes monthly rental payments.

B. Certain Payments for Which Withholding at the Source is Required

1. Non-Employee Compensation

a. A withholding agent must withhold and deposit income tax on payments of non-employee compensation paid to resident or nonresident persons or entities. Income tax must be withheld at the rate of 2 percent on payments to licensed contractors for construction, repair, or improvements to real property and at the rate of 4.2 percent on all other non-employee compensation.

b. For purposes of this Section, the term *non-employee compensation* means any amounts required by the United States Internal Revenue Service to be reported as non-employee compensation on federal form 1099-MISC

subject to the following modification in Subparagraph c of this Paragraph.

c. Payments to a corporation will be considered non-employee compensation if the same payment made to a natural person would be considered non-employee compensation.

d. The first \$1,000 of the total payments to a payee during a calendar year shall be exempt from withholding under this Section.

2. Rents. A withholding agent must withhold and deposit income tax at a rate of 2 percent on payments to nonresident persons or entities of rents from immovable or corporeal movable property located in the state. A nonresident entity is any entity that does not have an office or other fixed place of business in the state. A withholding agent may rely on a written statement received from the payee that the payee is a resident unless the withholding agent has actual knowledge or reason to know that the statement is incorrect. A withholding agent is considered to have reason to know that a payee's statement of residence is incorrect if its knowledge of relevant facts or statements contained in the statement or other documentation is such that a reasonably prudent person in the position of the withholding agent would question the claim of resident status made.

3. Natural Resource Royalties. A withholding agent must withhold and deposit income tax at a rate of 4.2 percent on payments of natural resource royalties to nonresident persons or entities of royalties from property located in the state. A nonresident entity is any entity that does not have an office or other fixed place of business in the state. A withholding agent may rely on a written statement received from the payee that the payee is a resident unless the withholding agent has actual knowledge or reason to know that the statement is incorrect. A withholding agent is considered to have reason to know that a payee's statement of residence is incorrect if its knowledge of relevant facts or statements contained in the statement or other documentation is such that a reasonably prudent person in the position of the withholding agent would question the claim of resident status made.

4. Rights to Use Intellectual Property, Intangibles, or Trademarks in the State. A withholding agent must withhold and deposit income tax at a rate of 4.2 percent on payments of royalties or similar revenues to resident or nonresident persons or entities for the right to use in the state patents, trademarks, tradenames, copyrights, secret processes, and similar intangibles.

a. For purposes of this Section, the term *withholding agent* includes persons that license the right to perform songs and musical works created and owned by songwriters, composers, lyricists, and music publishers or collects royalties on behalf of others including but not limited to the performing rights societies of the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music Incorporated (BMI), and the Society of European Stage Authors and Composers (SESAC).

b. These withholding agents must withhold and deposit income tax on the gross amount to be distributed to owners of intangibles as a result of licensing these rights in Louisiana. However, these withholding agents may credit

any amount of tax previously withheld on payments made to them.

C. Requirements for Payees

1. Payee. For purposes of this Section the term *payee* means any person entitled to receive any item of income subject to withholding.

2. Payee's Obligation to Provide Information to Withholding Agent. Prior to the receipt of any payment of income subject to withholding under this Section, a payee must furnish to a withholding agent the payee's full and correct name, address, and Louisiana Account Number.

D. Tax-Exempt Organizations

1. Exemption from Withholding Where Payee is a Tax Exempt Organization. No withholding is required under R.S. 47:164(D) and this Section on amounts paid to an organization for which the Internal Revenue Service has issued a favorable determination letter that the organization is exempt from tax or an organization described in R.S. 47:287.501(B).

2. Organization's Claim of Exemption from Withholding. For an organization to claim an exemption from withholding based on its status as an organization exempt from federal income tax or an organization described in R.S. 47:287.501(B), it must furnish the withholding agent a statement described in Paragraph 4 of this Subsection.

3. Reliance on Organization's Claim of Exemption. A withholding agent may rely on a claim of exemption under this Subsection only if, prior to the payment, the withholding agent can reliably associate the payment with a valid statement described in Paragraph 4 of this Subsection.

4. Claim of Exemption from Tax. A statement under this Paragraph is valid only if it includes the federal taxpayer identifying number of the organization whose name appears on the statement and it certifies that the Internal Revenue Service has issued a favorable determination letter that the organization is exempt from tax and the date of the Internal Revenue Service Letter or certifies that the organization is an entity described in R.S. 47:287.501(B).

E. Amount Withheld Treated as Tax Paid by the Payee

1. Payee as the Taxpayer. The payee is the person ultimately liable for income tax on payments subject to withholding. Where a withholding agent has failed to withhold or has failed to withhold the entire amount of tax due on amounts subject to withholding, the payee must file a Louisiana income tax return and pay all income tax due for the taxable year of the payee in which the payment is includible in the payee's income under the payee's method of accounting.

2. Over Withholding. If any withholding agent withholds more income tax than the amount of Louisiana income tax for which the payee is liable, the payee may seek a refund of tax by filing a Louisiana income tax return for the taxable year in which there has been over withholding.

F. Payments subject to withholding under other provisions of Louisiana law or other applications of R.S. 47:164 are not subject to withholding under this Section.

G. Exception from Requirement to Withhold for Small Businesses.

1. Withholding not Required for Businesses with Less than \$1,000,000 from All Sources in Annual Gross Receipts. A trade or business that has less than \$1,000,000 from all

sources in gross receipts for the prior taxable year and is not party to uncompleted contracts under which it is entitled to receive \$1,000,000 or more over the lives of the contracts is not required to withhold under this Section.

a. Gross receipts does not include salaries or wages earned by an employee.

b. *Prior Taxable Year*—the taxable year ending in the prior calendar year.

2. Aggregation of Gross Receipts from Activities of Related Persons. For purposes of determining whether a business has less than \$1,000,000 in gross receipts for the prior taxable year, gross receipts include gross receipts of a person and all entities which are controlled entities with respect to such person.

3. Controlled Entity. For purposes of this Subsection, the term *controlled entity* means with respect to any person:

a. a corporation more than 50 percent of the value of the outstanding stock of which is owned (directly or indirectly) by or for such person;

b. a partnership more than 50 percent of the capital interest or profits interest in which is owned (directly or indirectly) by or for such person;

c. two or more corporations in which the same persons own (directly or indirectly) more than 50 percent of the value of the stock of such corporations;

d. two or more partnerships in which the same persons own (directly or indirectly) more than 50 percent of the capital interest or profits interest in such partnerships;

e. a corporation and a partnership if the same persons own (directly or indirectly) more than 50 percent of the value of the stock of the corporation and (directly or indirectly) more than 50 percent of the capital interest or profits interest in the partnership; and

f. a trust and a beneficiary of the trust.

4. Partnership. For purposes of this Subsection, the term "partnership" includes any entity classified as a partnership or disregarded as a separate entity from its owner for income tax purposes.

5. Constructive Ownership of Stock or Interests in a Partnership. For purposes of determining whether an entity is a controlled entity, the following rules shall apply.

a. From Partnerships and Estates. Stock or a partnership interest owned (directly or indirectly) by or for a partnership or estate shall be considered as owned proportionately by its partners or beneficiaries.

b. From Trusts

i. Stock or a partnership interest owned (directly or indirectly) by or for a trust (other than an employee's trust described in Section 401(a) of the Internal Revenue Code and exempt from tax under section 501(a) of the Internal Revenue Code) shall be considered as owned by its beneficiaries in proportion to the actuarial interest of such beneficiaries in such trust.

ii. Stock or a partnership interest owned (directly or indirectly) by or for any portion of a trust of which a person is considered the owner under Subpart E of Part I of Subchapter J of the Internal Revenue Code (relating to grantors and others treated as substantial owners) shall be considered as owned by such person.

c. From Corporations. Stock or a partnership interest owned (directly or indirectly) by or for any corporation shall be considered as owned by the

corporation's shareholders in that proportion which the value of the stock which such person so owns bears to the value of all the stock in the corporation.

d. To Partnerships and Estates. Stock or a partnership interest owned (directly or indirectly) by or for a partner or beneficiary of an estate shall be considered as owned by the partnership or estate.

e. To Trusts

i. Stock or a partnership interest owned (directly or indirectly) by or for a beneficiary of a trust (other than an employee's trust described in Section 401(a) of the Internal Revenue Code and exempt from tax under Section 501(a) of the Internal Revenue Code) shall be considered as owned by the trust unless such beneficiary's interest in the trust is a remote contingent interest. For purposes of this clause, a contingent interest of a beneficiary shall be considered remote if, under the maximum exercise of discretion by the trustee in favor of the beneficiary, the value of such interest, computed actuarially, is 5 percent or less of the value of trust property.

ii. Stock or a partnership interest owned (directly or indirectly) by or for a person who is considered the owner of any portion of a trust under Subpart E of Part I of Subchapter J of the Internal Revenue Code (relating to grantors and others treated as substantial owners) shall be considered as owned by the trust.

f. To Corporations. Stock or a partnership interest owned (directly or indirectly) by or for any person owning stock in a corporation shall be considered as owned by the corporation.

g. Spouse. An individual shall be considered as owning stock or a partnership interest owned (directly or indirectly) by the individual's spouse (other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance).

h. Operating Rules

i. In General. Except as provided in this Subparagraph, stock or a partnership interest constructively owned by a person by reason of Subparagraphs a, b, c, d, e, f, or g, shall, for purposes of applying Subparagraphs a, b, c, d, e, f, or g, be considered as actually owned by such person.

ii. Partnerships, Estates, Trusts, and Corporations. Stock or a partnership interest constructively owned by a partnership, estate, trust, or corporation by reason of the application of Subparagraphs d, e, or f shall not be considered as owned by it for purposes of applying Subparagraphs a, b, or c in order to make another the constructive owner of such stock or partnership interest.

i. Example. The following example illustrates the application of Subparagraph h.

Example. Individual A owns all of the interests in LLC #1. LLC #1 owns a house held by the LLC for rental. During the taxable year, LLC #1 collects \$240,000 in gross rent from renting the house. LLC #1 pays Company X \$3,000 for tree removal services. A also owns all of the interests in LLC #2. LLC #2 owns three condominiums and collects \$360,000 in gross rent from leasing the condominiums during the taxable year. A's spouse owns all of the interests in LLC #3. LLC #3 owns an apartment building and collects \$500,000 in gross rent from the apartment building during the taxable year. Under Subparagraph g, A is deemed to own all of the interests in LLC #3 that are owned by A's spouse. Under Subparagraph d., LLC #1 is considered as owning all of the interests owned directly and indirectly by A in LLC #2 and LLC #3. Thus, for

purposes of determining whether LLC #1 must withhold tax on the \$3,000 of payments to Company X, LLC #1 is treated as having gross receipts of \$1,100,000 (\$240,000 of LLC #1's gross receipts + \$360,000 of LLC # 2's gross receipts + \$500,000 of LLC #3's gross receipts). Accordingly, LLC #1 must withhold tax of \$60 (2 percent of \$3,000) on the \$3,000 paid by LLC #1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:112, R.S. 47:164, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 33:

Family Impact Statement

The proposed adoption of LAC 61:I.1511, regarding withholding of income tax at the source, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. The implementation of this proposed Rule will have no known or foreseeable effect on:

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

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be submitted no later than 4:30 p.m., Tuesday, April 24, 2007. A public hearing will be held on Wednesday, April 25, 2007, at 1:30 p.m. in the Calcasieu Room located on the second floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Income: Withholding Tax

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

This proposed regulation will specify the persons who must withhold income tax, the rules that apply to such persons, and certain payments for which withholding at the source is required. The implementation cost is approximately \$31,720 in FY 07/08 and \$51,440 in FY 08/09 for system modification.

The implementation of this proposed regulation will have no impact upon any local governmental units.

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

This proposed regulation will increase compliance with the individual and corporate income tax statutes. The regulation will also help avoid attacks on the state's ability to collect taxes on royalties and other payments for use of intangible assets in the state. The changes will result in an indeterminable increase in tax revenues. It is effective beginning with the calendar year 2008.

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

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

Beginning with the calendar year 2008, individuals or businesses with more than a million dollars per year in gross receipts, meeting the definition of withholding agent, will be affected. The costs would be those to extend a wage withholding system to cover these non-wage payments. Reporting and payments to the Department are required to be made electronically.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment in either the public or private sectors.

Cynthia Bridges
Secretary
0703#044

Robert E. Hosse
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Rehabilitation Services

Personal Assistance Services Program (LAC 67:VII.Chapter 11)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS), is revising Chapter 11, Personal Care Attendant Policy Manual. Revisions to the policy manual are to provide more flexibility in the program with regard to eligibility and service hours, and to revise the name of the Personal Care Assistance Program to *State Personal Assistance Services Program*.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 11. State Personal Assistance Services Program

§1101. Mission

A. General Statement. The Legislature of Louisiana recognizes the right of people with significant physical disabilities to lead independent and productive lives and further recognizes that persons with significant disabilities require personal assistance to meet tasks of daily living and, in many cases to avoid costly institutionalization. The creation of the State Personal Assistance Services Program, hereafter referred to as the SPAS Program, is to provide state personal assistance services to persons with significant disabilities in order to support and enhance their employability and/or to avoid inappropriate and unnecessary institutionalization. The mission of the SPAS Program is to provide for an orderly sequence of services to those persons who are determined eligible for the program.

B. Program Administration. The Department of Social Services, through Louisiana Rehabilitation Services (LRS), is responsible for the administration of the SPAS Program.

C. The Manual's Function. This manual sets forth the policies of LRS in carrying out the agency's mission, specifically as this mission relates to the SPAS Program.

D. Exceptions. The secretary or secretary's designee shall have the sole responsibility for any exceptions to this policy manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), repromulgated LR 19:1436 (November 1993), amended LR 33:

§1103. Enabling Legislation

A. Louisiana Revised Statutes

1. Act 653, Chapter 27-A of Title 46 of the Louisiana Revised Statutes of 1950, comprising R.S. 46:2116 through 2116.5 relative to PCA services for individuals with significant disabilities.

2. Act 617 of the 2006 Legislative Session amending R.S. 46:2116, 2116.1(2),(3)(intro para), (3)(e) and (5), 2116.2(A) and (B)(1), (2), (3) and (4), (C)(intro para) and (C)(1) and (2), 2116.3(A), 2116.5(A) and (D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1437 (November 1993), LR 33:

§1105. Definitions

A. The following terms, when used in this manual, shall have the meaning, unless the context clearly indicates otherwise.

Consumer-Directed—the consumer/recipient of personal assistance services, as provided by the SPAS Program, will direct, supervise, hire and discharge his/her personal attendant.

Contractor/Fiscal Agent—service provider(s)

Department—the Department of Social Services

Evaluation Team—the individuals who determine the eligibility of individuals with significant disabilities for state personal assistance services and shall be designated by the Director of Louisiana Rehabilitation Services.

Individual with Significant Disabilities—an individual with loss of sensory or motor functions interfering with activities of daily living to the extent that the person requires assistance with non-medical personal care needs, domestic or cleaning needs, dressing and undressing, moving into and out of bed, transferring, ambulation, related services including but not limited to meal preparation, laundry, and grocery shopping, and other similar activities of daily living.

PA—personal assistance

Secretary—the Secretary of the Department of Social Services

State Personal Assistance Services (SPAS) Program—services which are required by individuals with significant disabilities between 18 and 60 years of age to achieve greater physical independence and which include but are not limited to services related to:

- a. routine bodily functions, such as bowel or bladder care;
- b. dressing;
- c. preparation and consumption of food;
- d. housecleaning and laundry;
- e. moving in and out of bed; transferring;
- f. routine bathing;
- g. ambulation;
- h. any other similar activity of daily living.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1437 (November 1993), LR 33:

§1107. General Requirements

A. - A.2. ...

B. Compliance with State Laws, Federal Laws and Regulations, and Departmental Policies and Procedures. Staff involved in the SPAS Program shall comply with all state and federal laws, including Department of Social Services, LRS policies and procedures and Civil Service rules and regulations as applicable.

C. Cost-Effective Service Provision. State personal assistance services shall be provided in a cost effective manner without supplanting any existing personal assistance services.

D. Case File Documentation. All SPAS Program contractors/fiscal agents must maintain a case file for each SPAS Program consumer/recipient. The case file shall contain documentation to support the decision to provide, deny, or amend services. Documentation of the amounts and dates of each service provided to support all claims for reimbursement must also be included in the case file.

E. - F. ...

G. Hiring/Firing/Supervising. State personal assistance services as provided by the SPAS Program are to be consumer-directed at all times. The consumers of the SPAS Program shall direct, supervise, hire and discharge his/her personal assistance service provider in accordance with the fiscal agent's process. The personal assistance service consumer/recipient will report to the fiscal agent/contractor all new hire/discharge actions within three working days of the occurrence in accordance with the fiscal agent's process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), repromulgated LR 19:1437 (November 1993), amended LR 33:

§1109. Confidentiality

A. General Statement. All personal information in the possession of the fiscal agent shall be used only for purposes directly connected with the administration of the program.

B. Notification to Consumer/Recipients. Individuals asked to supply information for the fiscal agent shall be informed of the need to collect confidential information and the policies governing its use, release, and access, including:

1. the confidentiality of information provided in the case file must contain documentation that the individual has been advised of the confidentiality of information pertinent to his/her case;

2. the principal purpose for which the fiscal agent intends to use or release the requested data;

3. whether they may refuse or are legally required to supply the requested data;

4. any known consequence arising from not providing requested information will be deemed ineligible for the program;

5. the identity of other agencies to which information is routinely released.

C. Release of Confidential Information. The case file must contain documentation concerning any information

released with the individual's written consent where needed. Informed written consent is not needed for the release of personal records in the following condition. The consumer/recipient must be advised of this condition:

1. - 3. ...

D. Consumer/Recipient Access to Data. When requested in writing by the consumer/recipient or his representative, consumers/recipients or applicants have the right to see and obtain in a timely manner copies of any information that the fiscal agent maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the consumer/recipient's physical or mental health;

2. medical, psychological, or other information which may be harmful to the consumer/recipient.

Note: Such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the consumer/recipient's representative, or a physician or a licensed or certified psychologist.

3. ...

E. Informed Consent. Informed consent means that the consumer/recipient has signed an authorization to release information, which:

1. - 6. ...

F. Court Orders, Warrants and Subpoenas. Subpoenaed case records and depositions are to be handled in the following manner.

1. With the written informed consent of the consumer/recipient, the court will be given full cooperation.

2. Without the written informed consent of the consumer/recipient, when a fiscal agent is subpoenaed for a deposition or receives any other request for information regarding a consumer/recipient, he should:

a. honor the subpoena;

b. take subpoenaed case record or case material to the place of the hearing at the time and date specified on the subpoena;

c. if called upon to testify or to present the case record information, inform the court of the following:

i. that the case record information or testimony is confidential information;

ii. the subpoenaed case record information is in fiscal agency's possession;

iii. fiscal agent personnel will testify and/or release the case record information only if ordered to do so by the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1437 (November 1993), LR 33:

§1111. Applicant and Consumer/Recipient Appeal Rights

A. Any individual who is aggrieved by a decision with regard to a request for provision of personal assistance services may appeal said decision within 30 days from the date of the letter informing them of the denial decision taken on the SPAS Program application or reduction in services by requesting an informal administrative review. This request must be made in writing to Louisiana Rehabilitation Services, P.O. Box 91297, Baton Rouge, LA 70821-9297.

The findings of the informal administrative review must be determined within 30 days from the receipt of the written request. If the individual is dissatisfied with the finding of this informal administrative review, within 10 days from the date of the informal administrative review decision, the request for a fair hearing must be made in writing to Louisiana Rehabilitation Services, P. O. Box 91297, Baton Rouge, LA 70821-9297. The fair hearing must be held within 30 days of receipt of the request. The impartial hearing officer will make a decision based on the provisions of the Louisiana Rehabilitation Services SPAS Policy Manual and the law and provide to the applicant or consumer, or if appropriate, the representative, and the Director of LRS a full written report of the findings and grounds for the decision within 30 days of the completion of the hearing.

B. Services shall remain unchanged during the appeal process until a final decision is reached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1438 (November 1993), LR 33:

§1113. Eligibility and Ineligibility Decisions

A. Nondiscrimination and Nonexclusion. The evaluation team must apply eligibility requirements without regard to sex, race, creed, color or national origin of the individual applying for service.

B. A person can be determined eligible for services as set forth in R.S. 46:2116.2 if that individual meets all of the following criteria:

1. is an individual with significant disabilities; and

2. is between the ages of 18 and 60. An individual who begins to receive services between the ages of 18 and 60 shall continue to receive services after age 60, provided that all other eligibility requirements are met; and

3. needs personal assistance services from this program to prevent or remove the consumer/recipient from inappropriate placement in an institutional setting or enhance the consumer/recipient's employability; and

4. provides verification of the disability from the treating physician; and

5. is capable of hiring, firing, and supervising the persons who provide personal assistance services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993), LR 33:

§1115. Economic Need

A. In determining an individual's financial need for services, Louisiana Rehabilitation Services will use a system based upon the current federal poverty guidelines. The economic need status of each consumer/recipient for the SPAS Program shall be considered in the initial determination of eligibility for services and at least annually thereafter. The consumer/recipient must provide verification of income.

B. The total monthly income of the SPAS applicant and/or spouse shall be considered in determining the amount of available income in the determination of eligibility for services. Current income received on a regular basis must be considered regardless of its source. Sources can include

wages, fees, commissions, retainers, rent, interest, dividends, payment for service in cash or kind, benefits by way of pensions, compensation from insurance payments, fellowships, contributions from family or other individuals (including "free" room and board), public assistance payments, alimony and/or payments by roomers/boarders.

C. In determining the amount of available income to the consumer/recipient and/or spouse, the following are exceptions to be used:

1. court-ordered child support and/or alimony (use exact amount);

2. medical expenses, not covered by insurance, which are paid on a monthly basis, as documented by medical statements and/or canceled checks. Examples of monthly expenses are:

- a. purchase of durable medical equipment;
- b. repairs to durable medical equipment;
- c. medication (not covered by insurance);
- d. surgical supplies (not covered by insurance);
- e. physician's bills (not covered by insurance);
- f. hospitalizations (not covered by insurance);
- g. unreimbursed personal assistance services paid

by consumer/recipient;

h. payments withheld from wages for:

- i. taxes;
- ii. retirement;
- iii. medical and/or life insurance premiums;
- i. other unusual obligations to include any

emergency needs, or any disability related expenses. Expenditure is to be documented as to total amount owed, for what, and amount of monthly payment.

D. Economic need will be applied using income minus allowed expenses cited above, if applicable.

E. Surplus. The monthly surplus must be applied toward the cost of services each month for the duration of planned services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 33:

§1117. Plan for State Personal Assistance Services

A. A state personal assistance services plan is to be developed between the consumer/recipient and the fiscal agent to determine the number of personal assistance hours needed by the consumer/recipient per week. A SPAS plan shall be initiated annually or more often, if indicated. The SPAS plan and all updated plans shall be contained in the consumer/recipient's case record.

B. Consumer/Recipient Participation. The consumer/recipient is to participate fully in the development of the SPAS plan, including all changes and amendments. Consumer/recipient's signature is required for the personal assistance plan and any amendments.

C. Minimum content of the personal assistance plan:

1. identification of specific services to be delivered;
2. the frequency of service(s) with flexibility;
3. the beginning date and service review dates.

D. Amendment of the SPAS Plan. When the consumer/recipient or fiscal agent identifies a need for a change to the original SPAS plan, the consumer/recipient and the fiscal agent shall amend the plan to address the consumer/recipient's need(s). The amended plan shall be

submitted to the evaluation team if such changes are markedly different from the original plan.

E. Annual State Personal Assistance Services Plan Review. Every 12 months a review of the SPAS plan is mandatory and shall be reflected on the amended plan. A review can be done before 12 months, if indicated. In all cases, the consumer/recipient shall be involved in any review and/or changes to his/her personal assistance plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993), LR 33:

§1119. Financial

A. Prior Authorization. If an emergency situation exists where personal assistance services is needed to begin prior to the fiscal agent's receipt of written acceptance of consumer/recipient's application for SPAS Program, LRS Program Coordinator for the SPAS Program can provide authorization for services to begin. The fiscal agent must provide documentation in the consumer/recipient's case record confirming verification of the emergency and confirming authorization received from program coordinator. The program coordinator follows up such authorization in writing within five days to the appropriate fiscal agent following such verbal authorization.

B. The consumer/recipient of SPAS will invoice the contractor/fiscal agent bi-monthly in arrears for personal assistance services purchased and include copies of time sheets as verification of the services being provided. The invoice shall contain the following:

1. dates of services;
2. number of hours of personal assistance services per day;
3. rate of pay;
4. signature of personal assistance provider;
5. signature of consumer/recipient of the SPAS Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993), LR 33:

§1121. Contractor/Fiscal Agent Responsibilities

A. The fiscal agent shall keep a waiting list of individuals wanting to apply for the SPAS Program.

B. The fiscal agent shall take a pre-application on consumer/recipients who will be placed on the waiting list for services and shall use criteria developed by Louisiana Rehabilitation Services in assigning a priority category for services.

C. When funds are available; the fiscal agent shall send the pre-application and application on the prioritized individual to the LRS Program Coordinator to forward to the evaluation team for determination or redetermination of eligibility.

D. The fiscal agent shall maintain a case record on each consumer/recipient or pre-application. The case record must include, as a minimum, the pre-application form and, if applicable, a copy of the ineligibility letter, personal assistance plan and all amendments to this plan, documentation from medical and/or other appropriate sources, proof of income, and any other additional material

which is a necessary part of the application and/or reconsideration for the SPAS Program.

E. The fiscal agent shall perform reconsideration at least annually on all SPAS Program recipients including a determination of economic need for services. If there is a change in circumstances, a revised personal assistance plan must also accompany the reconsideration which is to be sent to the LRS Program Coordinator who will forward to the evaluation team.

F. The fiscal agent shall make available personal assistance management training to all individuals receiving services under this program. Documentation of training including dates, name of trainer and names of individuals trained should be included in the case record.

G. The fiscal agent shall advise the applicant/consumer/recipient of the evaluation team's decision within five working days from receipt of the team's decision if found eligible for the SPAS Program.

H. The fiscal agent shall maintain copies of the time sheets on the attendants in order to document the number of days and hours worked. Payments for the time worked shall be paid within a reasonable period of time after the invoice is received by the fiscal agent.

I. The fiscal agent shall investigate information brought to the fiscal agent's attention which causes question of continued eligibility. This could include such items as falsification of time sheets, misuse of SPAS Program funds, and any other violation of the policy stated herein. This information shall be provided to the LRS Program Coordinator for disposition. If the information provided is substantiated, this shall be reason for denial of services.

J. The fiscal agent shall provide the consumer/recipient with a copy of the SPAS Program Policy Manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993), LR 33:

§1123. Evaluation Team Responsibilities

A. The evaluation team shall determine the eligibility of the person with a significant disability for the SPAS Program.

B. The evaluation team will re-evaluate the consumer/recipient of the SPAS Program through annual reviews of the reconsideration and personal assistance plan if applicable to determine the continued need for SPAS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1440 (November 1993), LR 33:

§1125. Responsibilities of LRS in the Eligibility Decision

A. The Director of Louisiana Rehabilitation Services shall designate the evaluation team who determines the eligibility of persons with significant disabilities for State Personal Assistance Services.

B. The Director of Louisiana Rehabilitation Services shall set the criteria for determining prioritization for serving individuals on the waiting list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1440 (November 1993), LR 33:

§1127. Violations, Penalties, and Reasons for Closure

A. The following may result in termination of services or other penalties:

1. the individual no longer meets eligibility criteria;
2. the individual falsified information (time sheets, signed personal assistance provider's name to check and/or time sheets, etc.);
3. the individual failed to meet the contractual agreement with the fiscal agent's requirements;
4. the individual is unable to be contacted and/or whereabouts unknown for 90 days or more and no response after an attempted home visit and certified letter;
5. any other reason which is contradictory to policy and procedures for the SPAS Program.

B. Definitions

Fraud—use of trickery or deceit to receive benefits. For *fraud* to exist:

a. misrepresentation of fact affecting eligibility, amount of benefits, and/or use of SPAS Program funds. The burden of proof that fraud exists is on the fiscal agent;

b. the misrepresentation must have been made knowingly and with deceitful intent.

Intentional Program Violation—made a false or misleading statement, or misrepresented, concealed or withheld fact; or committed any act that constitutes a violation of the SPAS Program or SPAS policy and/or procedures. Also, a consumer/recipient who repeatedly fails to comply with the policies and/or procedures of the SPAS Program would be in violation of §1127.

C. *Warning*. The contractor/fiscal agent should issue a "warning" to consumer/recipients who commit a violation of policy, such as failure to comply with terms of the service plan between the consumer/recipient and fiscal agent. The fiscal agent will determine if the violation was intentional. If the violation is not intentional, written notice of the violation and action to correct the violation is to be given to the consumer/recipient. A copy of the notice to the consumer/recipient is to be placed in the consumer/recipient's case record. Repeat of the violation should be brought to the attention of the LRS Program Coordinator for consideration of termination.

D. Recoupment

1. In lieu of termination, the contractor/fiscal agent can demand that a consumer/recipient refund the SPAS Program for all benefits received because of a violation as listed above.

2. If the contractor/fiscal agent rules that the consumer/recipient must repay the amount in question, the contractor/fiscal agent will determine the repayment schedule. Consumer/recipient can remain eligible as long as recoupment is made and a willingness to comply with policies and procedures set forth in the SPAS Program are shown. The contractor/fiscal agent shall maintain close monitoring of the consumer/recipient until such time the

contractor/fiscal agent determines consumer/recipient is complying with the policies and procedures.

3. Recoupment is required from fraudulently received benefits as well; however, the consumer/recipient will not be eligible for further services.

E. Termination. The contractor/fiscal agent may terminate an individual who violates the policy and/or procedures of the SPAS Program. The determination to terminate will be based on the severity of the violation(s) and/or continued violation(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:1251 (November 1995), amended LR 33:

§1129. Procedures for Termination and/or Appeals

A. When a consumer/recipient is terminated from this program:

1. the contractor/fiscal agent will send a termination letter to the consumer/recipient that explains the reason and right to an appeal;

2. the contractor/fiscal agent should provide the consumer/recipient with a copy of "Applicant and Consumer/Recipient Appeal Rights" contained in the SPAS Program Policy Manual;

3. if the consumer/recipient appeals, he/she will continue to receive services until the appeals process is completed;

4. the consumer/recipient will be notified when the appeal process is completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (November, 1993), amended LR 21:1252 (November 1995), LR 33:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule could positively impact family stability by improving the quality of personal assistance care provided to a disabled family member.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? This 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 could improve family functioning as it will allow an increase in the number of hours that can be paid for personal assistant to be provided to a disabled family member.

4. What effect will this Rule have on family earnings and family budget? This Rule will have no effect on the family's earnings. However, it may assist the family in budgeting, as the Rule will increase the number of hours that can be paid to a personal assistant.

5. What effect will this Rule 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.

Public hearings will be conducted April 25, 2007, beginning at 9 a.m. at following locations: Baton Rouge, LRS Regional Office, 3651 Cedarcrest Avenue; Alexandria, LRS Regional Office, 900 Murray Street, Shreveport, LRS Regional Office, 1525 Fairfield Avenue; New Orleans, LRS Regional Office, 6620 Riverside Drive, Suite 101.

Individuals with disabilities who require special services should contact Judy Trahan, Program Coordinator, Louisiana Rehabilitation Services, at least 14 working days prior to the hearing if special services are needed for their attendance. For information or assistance, call 225-219-2225 or 800-737-2958, or 800-256-1523 for voice and TDD.

Interested persons may submit written comments on the proposed changes until 4:30 p.m. April 30, 2007, to James Wallace, Director, Louisiana Rehabilitation Services at the address below. Copies of the entire text of the revised policy manual may be obtained at Louisiana Rehabilitation Services, 627 N. Fourth Street, 2nd Floor, Baton Rouge, LA, or at each of its eight regional offices, and at the Office of the State Register, 1051 North Third Street, First Floor, Baton Rouge, LA.

Ann Silverberg Williamson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Personal Assistance Services Program

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

It is estimated that implementation of this proposed rule will result in an estimated increased cost to the State of \$99,208 (State General Fund) for FY 06/07, FY 07/08, and FY 08/09. It is anticipated that \$1,200 (State General Fund) will be expended in FY 06/07 for the cost of publishing the rule. The funding to implement this rule change for FY 06/07 is appropriated in the agency's base level budget, and the agency will operate within that budget.

The purpose for this rule change is to revise Chapter 11 of the Personal Care Assistance Program Policy Manual per Act 617 of the 2006 Regular Legislative Session. The revisions will provide more flexibility in the program with regard to eligibility and service hours and will revise the name of the Personal Care Assistance Program to "State Personal Assistance Services Program".

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

This rule will not impact revenue collections of state and local government units.

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

Individuals receiving State Personal Assistance Services will directly benefit from this rule change because the limitation on minimum and maximum service hours are being removed, thereby allowing a client to receive more service hours. The rule will also allow the agency to increase the number of clients being served from 21 to 24. In addition, the rule changes the eligibility requirements by increasing the age limit from 55 to 60, which allows those persons not eligible for services under the present age limit to receive services. Also, contractors providing personal assistance services will benefit as their rate of pay will increase from \$8.00 per hour to \$9.00 per hour.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There is no impact on competition and employment as a result of this rule change.

James E. Wallace
Director
0703#093

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Real Estate**

Appraisal Handbook for Fee Appraisers
(LAC 70:XVII.Chapter 5)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to amend a Rule entitled "Appraisal Handbook for Fee Appraisers", in accordance with the provisions of R.S. 48:441 et seq.

Title 70

**TRANSPORTATION
Part XVII. Real Estate**

Chapter 5. Appraisal Handbook for Fee Appraisers

§501. Purpose

A. A vital and very basic requirement of a right-of-way operation is the procurement of real estate appraisals, prepared by a competent and knowledgeable appraiser, which are complete and well documented.

B. Of no less importance is the need for appraisal reviews by a skilled and knowledgeable reviewer who is thorough, practical and complete.

C. The purpose of this rule is to provide fee appraisers and fee review appraisers with a handy reference for information on procedures, available materials and department requirements for real estate appraisal reports with the intention of standardizing procedures to insure uniform practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§503. Overview of the Purpose of the Appraisal and Appraisal Requirements

A. The laws of Louisiana provide that compensation must be paid for the value of real property or rights taken. The value of the real property or rights taken must be based on the premise of the highest and best use or the most profitable, legal and likely use for which a property may be utilized. The opinion of such use may be based on the highest and most profitable continuous use for which the property is adapted or likely to be used for a reasonable future time. However, elements affecting value which depend upon events or a combination of events which, while possible, are not reasonably probable, should be excluded from consideration. Also, if the intended use is dependent upon an uncertain act of another person, the intention cannot be considered.

B. The appraiser should perform an analysis of the market demand giving consideration to the highest and best use. Where a property is composed of more than a single

highest and best use, the appraiser must type, value and support each portion separately, i.e., front land/rear land highest and best uses. Where different uses and values of property are being acquired, each use and corresponding value must be stated separately thereby complying with the state laws and compensating for the full value of the partial acquisitions. Based on the highest and best use, the appraiser must set forth a reasonable and factual explanation indicating his/her support, reasoning and documented conclusions.

C. All market data, comparable sales, forms, etc., which are referred to within the report and are pertinent to the fair market value of the property being appraised, shall be collected and cited for the project and ownership for which the appraisals are being written. Simply referring to data used for other projects or appraisals is not acceptable.

D. All recognized appraisal procedures and approaches to value: the cost approach, the market approach and the income approach, which apply to the property under appraisal, are to be considered by the appraiser and utilized if found to be applicable. If an approach is found not applicable to the property being appraised, there shall be included a concise and detailed reasoning as to its shortcomings. The appraiser shall explain the reason(s) in the correlation of value as to why one or more approaches are more applicable to his/her estimate of market value and/or why the other approach or approaches are less applicable to the property being appraised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 29:2857 (December 2003), LR 33:

§505. Scope of Work

A. The LDOTD, acquiring real property, has a legitimate role in contributing to the appraisal process, especially in developing the scope of work and defining the appraisal problem.

B. The scope of work and development of an appraisal under these requirements depends on the complexity of the appraisal problem.

C. The LDOTD has the responsibility to assure that the appraisals it obtains are:

1. relevant to its program needs;
2. reflect established and commonly accepted Federal and federally assisted program appraisal practice, and
3. as a minimum, complies with the definitions of "appraisal" in 49 CFR §24.2(a)(3).

D. They must also meet the five following requirements:

1. an adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including:
 - a. items identified as personal property;
 - b. a statement of the known and observed encumbrances, if any;
 - c. title information;
 - d. location;
 - e. zoning;
 - f. present use;
 - g. analysis of highest and best use; and
 - h. at least a five-year sales history of the property;

2. all relevant and reliable approaches to value consistent with established federal and federally assisted program appraisal practices. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the appraiser's opinion of value;

3. a description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction;

4. a statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property, where appropriate;

5. the effective date of valuation;

6. date of appraisal;

7. signature; and

8. certification of the appraiser.

E. The scope of work statement should include the purpose and/or function of the appraisal, a definition of the estate being appraised (if it is fair market value, include its applicable definition), and the assumptions and limiting conditions affecting the appraisal. The term *scope of work* defines the general parameters of the appraisal. It reflects the needs of the LDOTD and the requirements of federal and federally-assisted program appraisal practice. It should be developed cooperatively by the assigned appraiser and an LDOTD official who is competent to both represent the department's needs and respect valid appraisal practice. The scope of work statement should include the purpose and/or function of the appraisal, a definition of the estate being appraised, and if it is market value, its applicable definition, and the assumptions and limiting conditions affecting the appraisal. It may include parameters for the data search and identification of the technology, including approaches to value, to be used to analyze the data. The scope of work should consider the specific requirements in 49 CFR 24.103(a) (1) through (5) and address them as appropriate. Section 24.103(a)(1). The appraisal report should identify the items considered in the appraisal to be real property as well as those identified as personal property. Section 24.103(a)(2). All relevant and reliable approaches to value are to be used. However, where a department determines that the sales comparison approach will be adequate by itself and yield credible appraisal results because of the type of property being appraised and the availability of sales data, it may limit the appraisal assignment to the sales comparison approach. This should be reflected in the scope of work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§507. Application for Approval as Fee Appraiser

A. Application must be submitted to the Real Estate Administrator prior to inclusion of said appraiser on the LDOTD Approved Panel of Fee Appraisers. The form asks several general questions concerning the appraiser's personal and appraisal background in order to gain insight into the appraiser's experience, qualifications and training. If qualified, the appraiser may complete that section of the application for inclusion within said application. Upon completion of the application and acceptance by the

Appraisal Office, the Assistant Real Estate Administrator will recommend to the Real Estate Administrator that the appraiser be placed on the Approved Panel of Fee Appraisers. Upon approval, the Assistant Real Estate Administrator will notify the appraiser of his/her approval and request that the appraiser read and sign one of two copies of the Agreement for Appraisal Services and return a single copy to the Appraisal Office for processing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§509. Qualifications of Fee Appraisers

A. Upon the appraiser's initial request for a Fee Appraiser Application Packet, the Assistant Real Estate Administrator will notify the appraiser of the receipt of the request and provide the necessary forms to be completed. Those forms will include a letter stating the minimum requirements to be considered for employment by the LDOTD Appraisal Office. If the appraiser meets the qualification requirements of the LDOTD and is approved for employment, he/she will be included on the Approved Panel of Fee Appraisers. The minimum requirements for acceptance of Fee Appraisers on the LDOTD's Approved Panel of Fee Appraisers are as follows.

1. The appraiser must be a Certified Appraiser pursuant to the Louisiana Certified Real Estate Appraiser Law.

2. The appraiser must follow the appraisal standards as set forth by the Uniform Standard of Professional Appraisal Practice (USPAP).

3. The appraiser must follow the appraisal standards as set forth by the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA).

B. Many of the fee appraisal work required by the department involve properties required for projects in which federal funds are utilized. Therefore, all reports must meet LDOTD and FHWA requirements for each project assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§511. Conduct of Appraiser

A. Each fee appraiser is a representative of the Louisiana Department of Transportation and Development. It is important that he/she be courteous and considerate in dealing with the property owners or their representatives. This is particularly important since the appraiser may be the first LDOTD representative to make contact with the owners.

B. The appraiser shall include documentation to indicate the date and extent of his contact with the property owners. Should the appraiser fail to contact the owners, he/she shall document the efforts to locate the owners. It is recommended that contact be made initially by certified letter as a method of documentation. The appraiser should not express to the owners, owner's representatives or any occupants an opinion relating to the value he/she might establish for this or any other properties upon the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§513. Fee Review Appraiser Qualifications

A. Only those individuals on the Approved Panel of Fee Appraisers can be considered for fee review appraisal assignments. The minimum requirements for a fee review appraiser are as follows:

1. the appraiser must be Certified General Appraiser pursuant to the Louisiana Certified Real Estate Appraiser Law;
2. must have a minimum of four years full time experience in appraising real property for a condemning authority;
3. must have experience in appraising the types of properties within the scope of work for the project under consideration and/or any other requirements deemed relevant for the project under consideration;
4. the appraiser must follow the appraisal standards as set forth by the Uniform Standards of Professional Appraisal Practice (USPAP);
5. the appraiser must follow the appraisal standards as set forth by the Uniform Appraisal Standards for Federal Land Acquisitions.

B. Many of the fee appraisal work required by the department involve properties required for projects in which federal funds are utilized. Therefore, all reports must meet LDOTD and FHWA requirements for each project assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§515. Agreement for Appraisal Services

A. The Agreement for Appraisal Services is a document which every fee appraiser employed by the LDOTD is required to sign. The agreement sets out the parameters within which the department and the appraiser will cooperate as well as sets forth the details and requirements that must be met within the appraisal report. The appraiser should be very familiar with all of the requirements contained within this agreement. The signed form, after its execution, will be placed in the appraiser's file and need not be re-signed with each contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§517. Contract for Appraisal Services

A. The Contract for Appraisal Services is the form utilized by LDOTD in obtaining the services of fee appraisers on a given project. The contract sets forth the requirements for each appraisal requested and sets a completion date by which the assignment must be submitted. The contract binds LDOTD and the fee appraiser until such time as the assignment is complete or the contract has been terminated. However, work on a contract should not begin until a "Letter of Authorization" is received instructing the appraiser to begin.

B. The appraiser should examine the agreement in detail and should be particularly aware of the time element set up within the contract. The LDOTD operates its construction program through a schedule of contract letting and the

appraiser's failure to meet the time requirement of the contract can have damaging effects upon the overall completion of a project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§519. Contract Extensions

A. It is the policy of LDOTD that contract completion dates shall not be extended past the original due date. However, while all due diligence should be taken to meet the contract requirements, it is sometimes necessary to extend a contract. Just cause must be documented by the appraiser and a letter of request presented to the LDOTD Appraisal Office with adequate lead time to process the request through the appropriate channels prior to the contract completion date. In the event a completion date is not met and an extension has not been granted, the contract will be considered voided. Payment cannot be made for outstanding appraisals. At the discretion of the Appraisal Office, it may become necessary to contract another appraiser to complete the project assignment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§521. Appraisal Formats

A. Appraisals are to be reported, in most cases, on Forms A, B or C. Please refer to the format illustrations included within the body of this handbook.

B. All formats will include, but are not limited to, the applicable pages listed within the individual formats; a Certificate of the Appraiser, comparable sales and maps, improvements, floor plans and/or plot plans, flood maps, zoning maps, provided right of way maps, statement of limiting conditions, any references made during the report, a copy of the owner's notification letter, property inspection documentation and the Estimate of Compensation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§523. Interest Being Appraised

A. The interest being appraised is full ownership, less mineral rights. Each appraisal will show an estimated value of the total interest held. No breakdown of individual interests, other than lease fee/leasehold interests, held in the ownership should be made except as specifically instructed by the LDOTD. However, servitude and/or similar encumbrances on properties being appraised should be investigated and reported within the appraisal report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§525. Highest and Best Use

A. In an assignment, it is required that the appraiser fully analyze the highest and best use of a parcel and include that analysis within the appraisal report as a detailed and concise narrative. There are locations where the highest and best use

is obvious. At other locations, evaluation for highest and best use renders limited possibilities. If that is the case and a detailed analysis is not warranted, a less detailed written analysis is acceptable.

B. In cases where it is necessary to estimate the highest and best use of an improved parcel, the focus is on the existing use as well as all potential alternate uses. To correctly accomplish the goal, the appraiser must analyze the highest and best use as improved and as vacant.

C. Often, the existing use will be the highest and best use and that conclusion may be clearly obvious to the appraiser. The discussion within the report need not be as detailed as with a different or changing highest and best use.

D. The support of the appraiser's opinion is most critical in the not so obvious situations when the appraiser may need to respond to inquiries by the reviewer appraiser or an attorney. Because the highest and best use determinations affect the value conclusion, an unsupported estimate of the highest and best use may lead to unnecessary and costly litigation for both the LDOTD and the property owners.

E. When the highest and best use is estimated to be different from the existing use, the appraiser is essentially concluding that the present improvements no longer provide an acceptable return of the investment for that purpose. This generally occurs when the value of land in an area, due to changing conditions, increases to such a degree that it approaches or exceeds the value as improved. In cases such as this, a detailed analysis and discussion will be required utilizing accepted appraisal techniques.

F. The appraiser must substantiate the existence of demand for the proposed use; that the physical features of the property would accommodate that use; that the use is compatible with zoning requirements or a reasonable probability exists for re-zoning and there are no restrictions that would preclude that use.

G. Another item for consideration within the highest and best use evaluation is the recognition and adherence to the "Consistent Use Theory". Basically, a property in transition to another use cannot be valued on the basis of one use for the land and another for the improvements. This may introduce the possibility of an interim use. Sometimes an improvement is not the proper improvement to maximize the value of the whole property. There may be some type of interim use of that improvement which may be utilized until such time as the land can be put to its highest and best use. This improvement may be valued by ascertaining the amount of temporary income derived during the interim period or a value based upon the use of the interim improvement for another highest and best use until a proper improvement can be justified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§527. Land Valuation

A. For the determination of land values, a careful and thorough investigation of sales of nearby comparable lands is to be made. The report is to include sufficient information to show that the appraised values of land are adequate, reasonable and well supported by actual comparable sales. Any adjustments made to a comparable sale will be fully supported and soundly reasoned based upon facts gathered within the local real estate market of the project assignment.

In the case of a special use property or a limited local market, the appraiser may search for comparable data and utilize any data located outside of the actual market area of the subject project. These requirements apply to an after value appraisal as well.

B. When an appraiser is assigned to a project, he/she will be required to compile and submit all comparable sales data to the LDOTD Appraisal Office. This is generally referred to as the Master Binder. This Master Binder will be submitted by a prearranged date as set out in the Contract for Appraisal Services or verbally agreed upon between the Review Appraiser and the Fee Appraiser.

C. The LDOTD Appraisal Office may furnish market data forms to the appraiser upon request. These forms are to be used in all cases to report the market data information developed by the appraiser. The appraisers may develop their own forms but must include the information required within the LDOTD form.

D. It is not considered improper for an appraiser to obtain information about a sale from another appraiser provided the information is limited to factual information such as vendor, vendee, consideration, recordation, date of sale and legal description. The comparable information received from another appraiser should not include any analysis of the comparable sales, i.e., breakdown of land and improvements, analysis of a time factor or any other adjustment. The appraiser of record through verification or their own judgment must determine those items. This verification must be made with a party to the sale, i.e., seller, buyer, the closing agency, the broker handling the transaction and the verification of recordation which is the only avenue of verification not based upon statements of persons other than the appraiser (UASFLA Section B-4, page 38) (49CFR, Part 24, Subpart B, 24.103).

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§529. Valuation of the Entire Tract

A. The value determined for an entire tract is to be the value before the acquisition of the required right-of-way absent of any influence of the proposed project construction. The estimated value shall be as of the date of the appraisal study unless the appraiser is otherwise instructed by the project review appraiser or within the Contract for Appraisal Services.

B. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, is to be disregarded in determining the compensation for the required property.

C. Under most circumstances, the value estimate is to include the entire tract, based upon the highest and best use, and is to include all items of real property unless instructed otherwise within the Contract for Appraisal Services. The appraiser may include only a portion of a whole property if, in the highest and best use determination, he/she finds that the portion of the ownership affected by the acquisition is a separate "Economic Use Tract"; the determination is

supported and clearly understandable; and the review appraiser concurs in the determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§531. Valuation of the Remainder

A. The value estimate attributed to the remainder is a separate and singular appraisal problem. The appraiser is required to perform a complete appraisal of the remainder.

B. Reference may be made to factual data contained within the "before" appraisal as it pertains to the after appraisal. However, the Appraiser is to separately analyze and document the data to form his/her conclusions within the "after" appraisal.

C. The estimated value of the remainder is to be a realistic appraisal of value. It is required that the appraiser employ all three approaches when they are applicable to the appraisal problem. If and when an approach is not considered applicable, justification shall be provided.

D. The remainder value is not simply a value representing the difference between the value of an entire tract or use tract less the value of the required right-of-way, but is a well-supported and carefully analyzed value estimate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§533. Valuation of the Improvements

A. When buildings or other improvements are located partially or wholly within the proposed right-of-way, the appraisal is to be made on the basis that the LDOTD will purchase the improvements. In only a few rare situations will an appraisal be made on the basis of the purchase of a portion of a major improvement or the cost to relocate a major improvement on-site. In such situations, the appraisal report is to fully explain the justification for not buying the entire building. In assigning appraisals, the project Review appraiser will specify whether an improvement will be purchased or a cost-to-cure will be provided for the appraiser's use.

B. In the case of a severed building that is not specified as a whole acquisition, the appraiser shall include within the report the cost to restore the remaining improvement to its former utility and usefulness. A cost-to-cure does not necessarily alleviate other damages to an improvement or a remainder. Other damages may include a loss of utility or a change in access.

C. In some instances, an improvement is located substantially outside of the right-of-way with only a minor portion projecting into the required area and removal of the portion within the right-of-way would leave the major portion of the building reasonably suitable for use on the remaining site. When estimating damages under this scenario, the appraiser will be required to consider the more feasible of the two following possibilities:

1. the remainder of the improvements may possibly remain adjacent to the right-of-way line with a possible loss of value due to its position relative to the new right of way coupled with other possible damages as discussed above; or

2. the entire improvement may be moved to a more advantageous location on the remaining site. In this case, the

damage estimate would be based on the cost of moving the improvement and restoring it to a new location. These costs will not exceed the damages which would occur if the basis of the estimate were a cost to re-face a portion of the improvement located within the right-of-way nor will they exceed the cost to purchase the improvement as a whole.

D. The appraiser is to fully analyze each scenario and follow the path that is the most cost-effective in order to restore the owner to a position equal to that "before" the acquisition. However, it will rarely be requested that a "cut and re-face" or "move back" cure be used. These types of cures will be utilized in only very special cases where other, better accepted methods could not be utilized.

E. There may be within the proposed taking items that would be classified as part of the realty. These items may include machinery, fixtures, pumps, underground tanks, and water or air lines, pump islands, etc. These items may be the property of a lessor or a lessee. If the appraiser's assignment is to include these types of items, the items shall be valued based upon their contributory value to the whole property. If these items are determined to be a liability, then the value estimate should reflect that determination as well. The determination as to which items will be included within the report will be made by the project review appraiser with the input of the appraiser.

F. It is expected that appraisers employed by LDOTD will be qualified to estimate the cost of improvements generally encountered such as residences and appurtenant improvements. The issuance of a contract by LDOTD is sufficient evidence of the department's approval of the appraiser's expertise in such circumstances. However, in certain instances where high value improvements are to be acquired or affected, the LDOTD may obtain and furnish to the appraiser reproduction and/or replacement costs and/or cost-to-cure estimates by special agreement with a building contractor, professional engineer, registered surveyor, cost estimator or other specialist. In such cases, the use of special consultants will be provided for in a separate employment agreement in which the consultant is identified and provisions made for the consultant to be available for testimony in the event of condemnation proceedings. All required materials will be provided to the appraiser for use within the appraisal report, if the appraiser so chooses.

G. Unless specifically provided for in the Contract for Appraisal Services, the LDOTD will not pay additional amounts above the fee per parcel established for services to compensate for quotes or services of contractors or other specialists obtained by the appraiser. The fee of the appraiser is to compensate for providing a complete appraisal satisfactory to the purpose of the LDOTD. The appraisal report shall comply with the Agreement for Appraisal Services and the Contract for Appraisal Services as stated. Any findings of a consultant employed to aid in making an appraisal must be included and clearly identified within the appraisal report if accepted by the appraiser. If the findings of the consultant are not acceptable to the appraiser, he/she will include their own supported estimate or the justification for providing items which are not utilized.

H. A partial acquisition may result in damages to a remainder property that may be reduced or eliminated by construction of access roads, relocation of driveways or some other design modification. When the appraiser feels

justified in requesting a study to determine the feasibility of such modification, he/she may make a request to the Project Review Appraiser for such modification. When merited, the LDOTD will provide the appraiser with the engineering and construction costs to be weighed against damage items as they may be mitigated. This procedure is intended to assure a realistic estimate of damage based upon cost to cure estimates which may or may not be practical from an engineering standpoint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§535. Completeness of Appraisal and Appraisal Reports

A. The investigation is to be thorough and the appraisal report is to furnish adequate and reasonable information that fully explains and justifies determinations contained within the appraisal report.

B. The appraiser must complete all applicable appraisal criteria in accordance with the LDOTD requirements and USPAP and UASFLA as set forth in the Agreement for Appraisal Services. Any departure shall require full justification.

C. The fee appraisal work required by the LDOTD involves properties required for projects in which federal or state funds are utilized. Therefore, all reports must meet FHWA requirements for each project assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§537. Role of the Cost Consultant

A. Quite often it becomes necessary for the Appraisal Office to contract the services of individuals other than appraisal experts. More often than not those persons are cost consultants. These consultants are those who are trained and/or experienced in the construction industry with knowledge of and access to construction costs and related areas of expertise. The consultant may be asked to provide such items as reproduction and replacement costs, cost to cure items damaged by the required acquisition or costs for comparison purposes which would not be included within an appraisal report. The cost consultant is there to provide a service to the appraiser and LDOTD and should provide costs as requested and in conjunction with all other consultants that will utilize the estimate. The cost consultant is responsible to the project review appraiser as well as the appraiser(s) of record.

B. The cost consultant is to work hand in hand with the appraiser and review appraiser. Although he is the most qualified to judge construction costs, the appraiser is the person responsible for all values used within the appraisal report.

C. Just like the appraiser, the cost consultant is required to contact all property owners and allow them the opportunity to accompany the consultant during the property inspection. In the case of the cost consultant, it is absolutely necessary to inspect all improvements due to the nature of the assignment. Only in very rare situations would it be possible to complete a consultant assignment without, at

least, a rudimentary inspection of improvements. This would only be acceptable when an owner refuses entrance upon the subject site or within the subject improvements.

D. As mentioned earlier, the responsibility for the use of a cost estimate, whether replacement cost, reproduction cost, cost to cure or other cost assignment belongs to the appraiser. Therefore, it is absolutely necessary that the appraiser and the cost consultant work together. The cost consultant is responsible for the estimated costs where reproduction and replacement is concerned.

E. However, he and the appraiser must agree on the factual data such as the size of the improvement, location upon the site, minor improvements, etc. When a cost to cure is required, the cost consultant must provide a method of cure that is agreeable to both the appraiser and review appraiser in order for the assignment to be considered as acceptable and payment made. Therefore, the cost consultant and the appraiser(s) should inspect the subject property together, if possible, and at the least confer and compare factual data and proposed cures prior to submission of the contracted estimate for review. The provided reports shall contain a breakdown of the components required in a reproduction, replacement or cost to cure estimate and will quote a source of justification for said costs. Utilization of Marshall and Swift only is not acceptable. Therefore, when the costs provided are utilized by the appraiser, it is required that the cost consultant's report be included within the appraisal report.

F. The appraiser, as the one ultimately responsible for the costs quoted within his/her report will contact the review appraiser should a provided cost estimate not be suitable for inclusion within an appraisal report. However, the review appraiser should have made a determination prior to receipt of said report by the appraiser. The review appraiser will then contact the consultant and discuss the situation and the appraiser's concerns. Should it be found that revision is warranted, the cost consultant will be responsible for that revision. Payment for services rendered will be withheld until such time as acceptable revisions or corrections are submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§539. The Role of the Review Appraiser

A. The review appraiser, whether staff or consultant, has an important function and duty to his employer and is an essential element in the overall valuation procedure. The duties involved in the acceptable performance of his job include but are not limited to the following:

1. determines the scope of work for all fee consultants and/or staff utilized in the appraisal process. This includes appraisers, cost consultants, foresters, hydrologists, geologists, accountants, etc.;

2. provides contracts for all consultants based upon the determination of the scope of work;

3. supervises the appraisers and all other fee consultants employed for the duration of appraisal process;

4. insure that all reports utilized meet all applicable standards, policies, laws and regulations at both the state and federal levels;

5. verifies all data used in the appraisal reports with the appraisers providing the reports. This is to include inspecting subject properties and comparable sales;

6. substantiates that all factual data submitted by the appraisers is consistent. If not, the reviewer is to determine the correct data and have the discrepancies revised;

7. appraisal reports and/or other reports required for the appraisal process are approved only when it is determined the reports meet all laws, regulations, policies, procedures, etc. The review appraiser shall have all discrepancies or problems rectified prior to approving appraisal reports for negotiation. Reports that do not meet the qualifications shall not be approved and payment will not be forthcoming;

8. The review appraiser insures that value determinations are consistent based upon the criteria set forth to determine the market value of the properties being appraised. Inconsistencies shall always be corrected;

9. documentation of the review process shall be maintained within the project files;

10. the reviewer recommends the compensation due the property owner based upon the conforming reports provided. In the event the department utilizes a contract review appraiser, it will be understood the department shall approve the Estimate of Compensation;

11. review appraisers are also responsible for the inspection and approval of review assignments contracted to consultant review appraisers. This duty involves assuring the review is conducted in the manner stated above.

B. A qualified review appraiser shall examine the presentation and analysis of market information in all appraisals to assure that they meet the definition of appraisal found in 49 CFR 24.2(a)(3), appraisal requirements found in 49 CFR 24.103 and other applicable requirements, including, to the extent appropriate, the UASFLA and support the appraiser's opinion of value. The level of review analysis depends on the complexity of the appraisal problem. As needed, the review appraiser shall, prior to acceptance, seek necessary corrections or revisions. The review appraiser shall identify each appraisal report as recommended (as the basis for the establishment of the amount believed to be compensation), accepted (meets all requirements, but not selected as recommended or approved), or not accepted. If authorized by the LDOTD to do so, the staff review appraiser shall also approve the appraisal (as the basis for the establishment of the amount believed to be compensation), and, if also authorized to do so, develop and report the amount believed to be compensation.

C. If the review appraiser is unable to recommend (or approve) an appraisal as an adequate basis for the establishment of the offer of compensation, and it is determined by the acquiring LDOTD that it is not practical to obtain an additional appraisal, the review appraiser may, as part of the review, present and analyze market information in conformance with §24.103 to support a recommended (or approved) value.

D. The review appraiser shall prepare a written report that identifies the appraisal reports reviewed and documents the findings and conclusions arrived at during the review of the appraisal(s). Any damages or benefits to any remaining property shall be identified in the review appraiser's report. The review appraiser shall also prepare a signed certification

that states the parameters of the review. The certification shall state the approved value, and, if the review appraiser is authorized to do so the amount believed to be compensation for the acquisition.

E. In short, the review appraiser recommends compensation, clarifies and corrects appraisal deficiencies, corroborates the appraiser's conclusions, performs professional technical assistance to his employer, secures proper performance from the appraiser, documents the review performance, gives final organization approval regarding appraisal and valuation matters, operates in an autonomous position not subject to directed reviews, confers with management on valuation matters and is fully knowledgeable as to the requirements, problems and objectives of the organization he represents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§541. Establishment and Payment of Fees

A. Appraisal fees shall be established by the project review appraiser based upon a fee estimate compiled during on-site inspection of the subject project. Concurrence will be obtained from the appraiser prior to submission of a Contract for Appraisal Services. The fee schedule will be contained within the Contract for Appraisal Services and will delineate between the fee for individual reports and the total contract fee established for the subject project.

B. Invoices submitted by the appraiser shall consist of three copies or one if submitted electronically (e-mail). Each shall include the date, state project number, federal aid project number (if applicable), project title, route number and parish. Please note that the invoice must delineate between projects and parcels assigned to that particularly project. Also required within the invoice will be the contracted fee for each report submitted for disposition, a statement that payment has not been received for the submitted invoice and the appraiser's signature. A digital signature may be used for all forms submitted.

C. The LDOTD Appraisal Office will not process any invoice submitted by an appraiser for personal services rendered the LDOTD unless the fee has been previously established by written contract, approved by all necessary parties and authorization to proceed has been forwarded to the consultant. Invoices may not be dated or forwarded to LDOTD prior to the authorization date established within the Authorization to Proceed form letter forwarded to the appraiser by the LDOTD Real Estate Administrator.

D. In addition, no invoice will be paid prior to the project review appraiser's approval of the individual reports submitted, having found them to be satisfactory to the requirements of LDOTD as stated within the Contract for Appraisal Services and the Agreement for Appraisal Services. Any individual report found not to meet the necessary requirements as set forth shall be corrected by the appraiser to the satisfaction of the project review appraiser prior to payment of the agreed upon fee for that particular ownership. No payment will be made for reports submitted following the contracted assignment completion date. At that point, the contract is voided and a new contract must be approved and authorization received through the established channels prior to payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§543. Types of Appraisal Formats

A. Upon the receipt of approved right of way plans, the assigned project appraiser will make an on-site inspection and examination of each parcel on the project. Based upon that inspection, the review appraiser will determine which appraisal format shall be necessary for each parcel or parcels based upon the complexity of the appraisal problem. That determination will include:

1. the number of appraisals;
2. the format of appraisals;
3. the estimated fees;
4. the estimated appraisal contract completion date.

B. The Contract for Appraisal Services will set out the parcel number, fee and the format for each appraisal to be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§545. Form A

A. The form is designed as a complete, detailed appraisal of an ownership, including all land and improvements, using all applicable approaches. In effect, this is two separate appraisals, "before" the acquisition and "after" the acquisition, pertaining to partial acquisitions only. Each segment, before and after, is to be completed in detail and separate from the other. All approaches to value are to be utilized in detail when applicable. Any feasibility study shall be included within the report.

B. This form will include the following pages or reasonable facsimiles of them within the report. All pages from the title page to the required exhibits shall be included. At the discretion of the appraiser, additional pages may be included. The following pages required are:

1. Before Acquisition Analysis:
 - a. Title Page;
 - b. Table of Contents;
 - c. Letter of Transmittal;
 - d. Summary of Salient Facts and Conclusions;
 - e. Basis for Summary of Fair Market Value;
 - f. Title Data;
 - g. Discussion of the Appraisal Problem;
 - h. Photos of the Subject Property;
 - i. Neighborhood Data;
 - j. Site Data;
 - k. Statement of Highest and Best Use;
 - l. Comparable Land Sales and Listings Analysis;
 - m. Correlation and Indication of Land Value;
 - n. Improvements;
 - o. Floor Plan;
 - p. Cost Data Approach to Value;
 - q. Source and Justification of the Cost Approach;
 - r. Market Data Approach to Value;
 - s. Income Data Approach to Value;
 - t. Correlation of the Whole Property Value and Allocation of Value;
 - u. Required Right of Way;

2. After Acquisition Analysis:

- a. Site Data;
- b. Statement of Highest and Best Use;
- c. Comparable Land Sales and Listings Analysis;
- d. Correlation and Indication of Land Value;
- e. Improvements;
- f. Floor Plan;
- g. Cost Data Approach;
- h. Source and Justification of the Cost Approach;
- i. Market Data Approach to Value;
- j. Income Data Approach;
- k. Correlation of the After Value and Allocation of Value;
- l. Analysis of Other Considerations (Additional Compensation);
- m. Final Estimate of Value;
- n. Certificate of the Appraiser;
- o. Addenda:
 - i. Assumptions and Limiting Conditions;
 - ii. Vicinity, Strip and Remainder Maps;
 - iii. Property Inspection Report;
 - iv. Owner Notification Letter;
 - v. FIRM Maps;
 - vi. Comparable Sales and Maps
 - vii. Zoning Maps (if applicable);
 - viii. Estimate of Compensation;
 - ix. Others at the discretion of the Appraiser and/or Review Appraiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 29:2858 (December 2003), LR 33:

§547. Form B

A. The form is designed as a complete, detailed appraisal of an entire ownership, including all land and improvements using all applicable approaches unless instructed to do otherwise by the project review appraiser. This format is utilized most often to value an ownership that will be totally within a required area.

B. The following pages shall be required within the form. Other pages may be included at the discretion of the appraiser:

1. Title Page;
2. Table of Contents;
3. Letter of Transmittal;
4. Summary of Salient Facts and Conclusions;
5. Basis for Summary of Fair Market Value;
6. Title Data;
7. Discussion of the Appraisal Problem;
8. Photos of the Subject Property;
9. Neighborhood Data;
10. Site Data;
11. Statement of Highest and Best Use;
12. Comparable Land Sales and Listings Analysis;
13. Correlation and Indication of Land Value;
14. Improvements;
15. Floor Plan;
16. Market Data Approach to Value;
17. Income Data Approach to Value;
18. Cost Data Approach to Value;
19. Source and Justification of the Cost Approach;

20. Correlation of the Whole Property Value and Allocation of Value;

21. Required Right of Way;

22. Analysis of Other Considerations (Additional Compensation);

23. Final Estimate of Value;

24. Certificate of the Appraiser;

25. Addenda:

a. Assumptions and Limiting Conditions;

b. Vicinity, Strip and Remainder Maps;

c. Property Inspection Report;

d. Owner Notification Letter;

e. FIRM Maps;

f. Comparable Sales and Maps;

g. Zoning Maps (if applicable);

h. Estimate of Compensation;

i. Others at the discretion of the Appraiser and/or

Review Appraiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 29:2858 (December 2003), LR 33:

§549. Form C

A. The form is designed to be used only on simple acquisitions. The form does not require detailed discussions of the items listed, but the determinations made by the appraiser must be conclusive and based upon market support.

B. If during the appraisal assignment the appraiser finds that there are damages or benefits to the ownership by reason of the project, the appraiser is not to proceed with Form C but is to notify the project review appraiser. The review appraiser will then decide which form to utilize and will amend the appraisal contract to reflect those changes by format and fee schedule. Furthermore, when utilizing this form, it will be necessary for the appraiser to include the following statement within the body of the certificate:

"No damages or loss to the remainder of the Owner's property resulted from this partial acquisition, therefore, pursuant to LA. R.S. 48:453 B, no after appraisal is required."

C. The following pages are to be included within the report and may include others upon the discretion of the Appraiser:

1. Title Page;

2. Table of Contents;

3. Letter of Transmittal;

4. Summary of Salient Facts and Conclusions;

5. Basis for Summary of Fair Market Value;

6. Title Data;

7. Photos of the Subject Property;

8. Neighborhood Data;

9. Site Data;

10. Statement of Highest and Best Use;

11. Comparable Land Sales and Analysis;

12. Correlation of Land Value;

13. Required Right of Way;

14. Certificate of the Appraiser;

15. Addenda:

a. Assumptions and Limiting Conditions;

b. Vicinity, Strip and Remainder Maps;

c. Property Inspection Report;

d. Owner Notification Letter;

e. FIRM Maps;

f. Comparable Sales and Maps;

g. Zoning Maps (if applicable);

h. Estimate of Compensation;

i. Others at the discretion of the Appraiser and/or Review Appraiser.

D. All of the above-described forms are guides for submittal of acceptable reports. The appraiser may develop his/her own form, within reason. However, the form developed must include the information and detail required above and should be of the same basic format.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 29:2858 (December 2003), LR 33:

§551. Estimate of Compensation

A. The appraiser is to submit a Certificate of Estimate of Compensation as denoted by LDOTD. The certificate will state the estimated compensation due the owner for a particular acquisition. This form will be included within the addenda of the appraisal report for the use of LDOTD's Legal Division when filing suit, when necessary. Other copies of this form may be forwarded to the project review appraiser to be placed in the project file for later use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§553. Personal Property

A. The appraisal report should identify the items considered in the appraisal to be real property, as well as those identified as personal property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§555. Signs

A. When estimating the market value of on-site advertising signs for businesses, whether owner occupied or not, the market value of the sign will be determined by the Appraiser (ex.: RCN – DEPR. = MV).

B. Off-site advertising signs (billboard) values are determined by the appraiser based upon the market value (ex.: RCN – DEPR. = MV). The review appraiser will then provide, with the help of a construction cost consultant, the replacement cost new of this type of sign to be included within the recommended offer as per LDOTD policy. If the sign can not be replaced; then, other means of valuation may be utilized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§557. Items Excluded from Appraisals

A. Typically, moving expenses of owners and tenants rightfully in possession of real estate are reimbursable in accordance with the Louisiana Relocation Assistance Law which provides for the reasonable expenses of moving personal property. The actual cost of moving expenses is provided by the relocation assistance officer for use of the property owners or tenants, and is not determined by the appraiser. Therefore, no moving expenses for personal

property should be included within the appraisal report under normal circumstances.

B. The following items should be excluded from the appraisal report:

1. moving expenses for personal property;
2. estimated costs of relocations; or
3. adjustments or repairs of such items as public utilities, service connections for water, sewer, mobile homes, additions, etc., which will be caused by the required acquisition unless those costs are included within the Contract for Appraisal Services as "cost-to-cure" items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 29:2857 (December 2003), LR 33:

§559. Control of Access

A. Within the Contract for Appraisal Services, the project review appraiser will instruct the appraiser which appraisal format to use in the valuation of ownership's affected by control of access. The appraiser, in most circumstances will analyze the effects of control of access after the acquisition in much the same way as any "before and after" appraisal problem. A full analysis with all due documentation as to findings shall be included within the report.

B. All due diligence will be taken in consideration of the possible or probable use of a remainder that is influenced by control of access. The Appraiser should acquaint himself fully with LDOTD's and the owner's rights concerning access control and the legal determination as to the compensability or non-compensability for instances where LDOTD exercises this control. The appraiser should consult with LDOTD through the review appraiser, project engineers, district managers, the legal division, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§561. Mineral Rights

A. The LDOTD and the state of Louisiana do not generally acquire mineral rights. The property owner will retain the mineral rights beneath the area conveyed to the state. While the owner will be prohibited from exploring or drilling for or mining for oil, gas or other minerals of any kind within the area acquired, the owner may employ directional drilling from adjacent lands to extract such minerals, if possible. In cases where solid minerals are affected, i.e., those other than oil and gas, the appraiser, with the concurrence of the review appraiser, is to provide values for the affected minerals.

B. In some situations or markets, it may be typical to transfer mineral rights. If that occurs, the appraiser is to analyze the value of the rights transferred through the use of market sales and make adjustments, if warranted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§563. Timber Value

A. For assignments in which timber-producing lands are involved, particularly in areas where timber is grown for commercial purposes, it will generally be necessary to value

the land and the timber separately. In some instances, it may become the responsibility of the appraiser to abstract the timber and land value from market sales of whole property timberland tracts. However, due to the specialized nature of timber appraisal, the LDOTD will most often secure the services of a registered forester to supply the value of timber upon a project or particular site. In those instances, the appraiser will provide the value of the raw land and include the value of the timber, as provided by the forester, within the report.

B. In situations where the appraiser determines that the highest and best use of a tract is a greater use than timberland, the value of the timber will nevertheless be included within the report as an improvement item. However, at the appraiser's and review appraiser's discretion, the contributory value to the "highest and best use" may be zero.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§565. Crop Value

A. Prior to appraisal assignments, a determination shall be made by LDOTD Real Estate Titles and Acquisition personnel stating whether there is sufficient time prior to the right-of-way acquisition to allow harvesting of crops planted within the required area. If there is adequate time, the Real Estate Titles and Acquisition personnel will not be required to consider the compensation for crops. If time is limited, the Real Estate Titles and Acquisition personnel will estimate the value of the crop, and that sum will be included in the approved offer. Typically, the appraiser will not be involved in estimating the value of crops unless specifically requested to do so by the project review appraiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§567. Lease Interests

A. The appraiser is to inquire into the leases of subject properties whenever that possibility exists. That inquiry most particularly applies to improvements owned by a lessee. A review of a lease will be made by the appraiser so as to familiarize himself/herself with the terms and conditions of the lease. Any findings or conclusions shall be included within the appraisal report.

B. The appraiser is to value the whole property and is to establish the value to be assigned to each interest in that ownership. The appraiser is to value all lease fee and leasehold interests and is to provide a breakdown of those values within the appraisal report to include the portion acquired and estimated damages, should they apply.

C. In situations where a lease is recorded, that information will be supplied the appraiser within the provided Title Research Report. Discovery of unrecorded leases are the responsibility of the appraiser. The appraiser shall inquire as to the existence of such leases and shall provide an opportunity for such disclosure to the property owner within the required Owner Notification Letter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§569. Fencing Value

A. Front fencing owned by the property owner is to be bought or replaced if it is of contributory value to the land. Front farm/ranch fencing will normally be replaced or rebuilt by the project construction contractor on the owner's property in order to restore the enclosure.

B. Side (cross) fencing will be removed and will not be replaced. Compensation will be paid for said fencing. All fencing, whether front or side, is to be valued within the report and delineated by parcel and orientation.

C. Special purpose/ornamental fencing is to be compensated at cost new or replacement cost when it is feasible to replace. However, if the fence will not be replaced by the owner or cannot be replaced due to the acquisition, the depreciated cost or market value is to be utilized within the compensation estimate. This shall always apply to side fencing which, by its nature, cannot be replaced. If the right of way is acquired by expropriation, the value is deposited in the registry of the court. In either instance, the existing fence will be removed by the project construction contractor.

D. All fences constructed on controlled access highways for the purpose of controlling access will be built and maintained by LDOTD. Fences built along frontage roads or cross roads on controlled access facilities for the benefit of the property owner will be built off the highway right of way and will be maintained by the property owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§571. Construction and Drainage Servitudes

A. There are two types of servitudes commonly encountered by the appraiser that must be included in the valuation process of the appraisal. They are the "construction" servitude and the "drainage" servitude.

B. The construction servitude is a temporary servitude providing access for construction purposes to areas outside the required right of way. The compensation for this servitude is based upon the estimated unit land value multiplied by a rate set by the appraiser. That figure is then multiplied by the area within the servitude. The rate utilized is a rate of return that is consistent with investment return rates commonly accepted within the current local market. The appraiser is to apply the calculated estimate for a four year term based upon a yearly rental. That total rental is to be included within the estimate of the compensation.

C. The drainage servitude is a permanent servitude acquiring a number of rights. The acquisition partially includes right of entry and subsurface rights other than mineral rights. The ownership is greatly limited by the nature of the usage and compensation will be greater than that estimated for the construction servitude. The process of calculation is identical to that of the construction servitude, however, the rate utilized will be based on the permanent loss of rights. Generally, 80 percent to 90 percent rates will be used. Ultimately, the appraiser will decide upon the value of the rights taken and to what extent they will be permanently lost. This value will be included within the estimate of the compensation. In circumstances where a remaining area of an ownership is damaged due to a partial acquisition, estimated damages to any permanent servitude

will apply only to that portion of the Bundle of Rights that remain after the acquisition of the rights required of the servitude.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§573. Railroad Parcel Acquisition

A. LDOTD will pay the appraised market value of interest acquired from railroad companies for any additional right of way required from their right of way property.

B. Railroad parcels will be divided into two categories. One will be designated an RR parcel at railroad crossings. Any other takings from railroad properties will have a normal parcel identification of which we will offer the estimated market value for interest acquired. LDOTD will acquire the RR parcels as a right of way servitude with the railroad company retaining their rights for railroad passage at our proposed joint crossings. Designation and appraisal of the railroad acquisition at crossings as servitudes is to allow the compensation for only those rights acquired. Only those rights acquired should be compensated for within the appraisal.

C. The LDOTD Appraisal Office is responsible for establishing the value of the various types of railroad acquisitions. The appraisal of railroad properties is based on market value and the interest acquired from the railroad companies. The appraiser should take into consideration the following:

1. size and shape of the railroad ownership;
2. topography;
3. location;
4. adjoining usage;
5. value of the required area before construction versus value after construction; and
6. any adverse effect that the acquisition will have on the utility of the property.

D. These types of acquisitions from railroad properties will be appraised as follows.

1. At crossings, the LDOTD will obtain a bundle of rights similar to the rights which the railroad company will be retaining. In most cases, the appraisal of a right of way crossing should reflect a value range of zero to a maximum of 50 percent of fair market value. However, the actual percentage of value will be estimated by the appraiser. The type of construction at crossings could have a varying effect upon the percentage utilized. The different types of construction at crossings are as follows.

a. Grade crossings are those where railroad tracks and proposed roadways are at the same level. This type of construction could have the greatest effect upon the utility of the property.

b. Above grade construction or an overpass should have little effect on the utility. However, consideration should be given to pier placement and its adverse effects, if any, on the railroad property.

c. Below grade construction or an underpass is the third type of possible construction at crossings.

2. All other acquisitions from railroad right of way in excess of crossings shall be appraised and the estimated market value will be offered in relation to the interest that the LDOTD acquires. In most cases, the LDOTD will

appraise and offer 100 percent of market value. However, in the case of servitude acquisition, the LDOTD will offer compensation in accordance with the interest estimated to be acquired by the appraiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§575. Property Inspection with the Owner(s)

A. A reasonable effort shall be made to contact and meet with the owners or their designated representatives in order to afford them the opportunity to accompany the appraiser on inspection of the property being appraised. The appraiser is not obligated to meet the owner at any place other than the property being appraised or the nearest point of public access to the property being appraised.

B. Tasks for the Appraiser to Perform in Making Contact with the Owner(s)

1. Mail a form letter along with a stamped, addressed return envelope. All owners listed on provided title research reports are to be afforded an opportunity to meet. A copy will be forwarded to the District Real Estate Manager, the project review appraiser and included within the appraisal report. It is recommended that the letter to the owners be transmitted by certified mail.

2. Telephone contact is acceptable if it is followed by a detailed written report of owner contact including the name of the person(s) contacted, time of meeting and date. Copies must be sent to the District Real Estate Manager, project review appraiser, and included within the appraisal report.

C. The site inspection shall not be made until the following criteria are met:

1. a meeting is scheduled with the owner(s); or
2. the owner(s) replies that he/she/they do not wish to accompany the appraiser on the site inspection; or
3. three weeks have passed since the date of the notification letter mailing to the owner(s), there is no reply and the letter is not returned "undeliverable".

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§577. Owners Refusal to Permit Entry

A. There may be times when a property owner refuses to permit appraisers employed by LDOTD to enter the property for an on-site inspection, measurement, photography or interview. There is a standard procedure to follow if this should happen.

B. The appraiser should stay off of the property but shall make every effort to examine the property from as many vantage points as possible. The appraiser shall make a careful inspection of all available records including ASCS maps and aerial photographs, U.S. Geodetic Survey contour maps, tax records, building inspector records, etc. As many and varied photos should be taken as deemed prudent.

C. As a matter of procedure, the appraiser will notify the project review appraiser of the situation and clearly set forth that he/she was not permitted to enter upon the property and that the report is predicated upon certain assumptions. Those assumptions shall be noted. Also to be listed will be the sources of information used as a basis for those assumptions.

D. When the appraisal report is forwarded to the Appraisal Office for review, a determination will be made by the project review appraiser whether or not to pursue legal action to obtain access to the property. The project review appraiser will make every effort to inspect the property from any vantage point possible prior to forwarding a recommendation of action.

E. When the appraisal is approved and the recommended offer is furnished for processing, negotiation will be initiated on that basis. The Real Estate Titles and Acquisition Agent conducting the negotiations will make every reasonable effort to observe the property in question for the purpose of further verification of the appraiser's assumptions. If radical variation appears to exist, the Appraisal Office will be advised before continuing the negotiations. If the recommended offer is not accepted, eminent domain proceedings will be resorted to and entry by court order will be obtained at that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§579. Update of Appraisals

A. Occasionally, it may become necessary for the appraiser to update appraisals from the original date of valuation to the current date or to a specified date of acquisition. If this should become necessary, the project review appraiser will initiate a contract specifying the required date of valuation, the fee schedule and the completion date for the assignment. All contracts to update shall be as per a specific completion date so as to give ample time for the appraisals to be reviewed by the project review appraiser prior to negotiations.

B. All updated appraisals, where there are value changes by reason of time lapse, shall be supported by updated comparable sales data gathered within the project neighborhood. If sufficient sales data is not available within the subject neighborhood, the appraiser should investigate similar type properties in more removed areas as support for updated values.

C. Updated appraisals shall be submitted to the Appraisal Office for review and if warranted, a revised Estimate of Value will be issued by LDOTD for the purpose of negotiation and acquisition. When the appraiser is required to revise, supplement or otherwise update the appraisal report, no matter the format employed, a revised or updated "Certificate of Appraiser" and "Estimate of Compensation" shall be submitted with the revisions or updates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

Family Impact Statement

The proposed adoption of this rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. the implementation of this proposed rule will have no known or foreseeable effect on the stability of the family;
2. the implementation of this proposed rule will have no known or foreseeable effect on the authority and rights of

parents regarding the education and supervision of their children;

3. the implementation of this proposed rule will have no known or foreseeable effect on the functioning of the family;

4. the implementation of this proposed rule will have no known or foreseeable effect on family earnings and family budget;

5. the implementation of this proposed rule will have no known or foreseeable effect on the behavior and personal responsibility of children;

6. the implementation of this proposed rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this Notice of Intent to Sherryl J. Tucker, Senior Attorney, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245, Telephone (225) 237-1359.

Johnny B. Bradberry
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Appraisal Handbook for Fee Appraisers**

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

There should be no costs or savings to state or local governmental units to implement this rule change. It is being promulgated for the purpose of streamlining the guidelines for appraisal of property acquired by the Department. In addition, current law and practice will be reflected as a result of the amendment to this rule.

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

The amendment to this rule should 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)

Other than clarification of existing rules for the fee appraisers employed by the Department, directly affected persons and non-governmental groups will not be impacted.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule change reflects a recent change in state law which requires appraisers and review appraisers to meet new and more stringent certification requirements. These new requirements may serve to disqualify some appraisers who may have previously qualified, as well as potentially reduce the pool of applicants available to the Department.

Johnny B. Bradberry
Secretary
0703#067

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
Board of Trustees of the Louisiana
State Employees' Retirement System**

Domestic Relations Orders (LAC 58:I:4131)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes to amend LAC 58:I:4131. The proposed Rule amendment affects participants in the Self-Directed Plan of DROP ("SDP") who have been directed by a court, through a Domestic Relations Order ("DRO"), to divide DROP funds with a former spouse. When LASERS receives a properly worded and accepted DRO, it divides DROP funds accordingly and sets up a second account in the name of the former spouse of the participant, which the former spouse controls. The Rule amendment is designed to minimize the possibility of market losses to those funds belonging to the former spouse in the period between movement into the SDP and transfer of the proper portion into the account of the former spouse. This Rule amendment complies with and is enabled by R.S. 11:451.4 and R.S. 11:515.

**Title 58
RETIREMENT**

**Part I. Louisiana State Employees' Retirement
Chapter 41. Self-Directed Plan
§4131. Domestic Relations Orders**

A. In all instances wherein a person participating in the SDP is a party to a Domestic Relations Order ("DRO"), properly worded and approved by LASERS, and such DRO is to divide DROP funds with the participant's former spouse, LASERS shall establish a means whereby the former spouse may choose the investment options for his or her portion of the SDP. Until such time as the portion belonging to the former spouse is placed in a separate SDP account in that person's name, those funds shall remain in a conservative fixed income investment vehicle within the SDP such as a stable value fund.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:451.4 and 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1308 (June 2004), amended LR 33:

Family Impact Statement

The proposed amendment of LAC 58:I:4131 is aimed at minimizing the possibility of market losses of SDP funds belonging to the former spouse of a participant until he or she has their own account. This regulation should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

No preamble for this Rule is necessary. Interested persons may submit written comments on the proposed changes until 4:30 p.m., April 30, 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: Domestic Relations Orders

- 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)
DROP participants in the Self Directed Plan ("SDP") and their former spouses who are parties in the issuance of a Domestic Relations Order ("DRO") will be directly affected. No non-governmental groups will be directly affected. It is not possible for LASERS to calculate associated costs or economic benefits from the rule amendment at this time.
- 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
0703#024

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
Board of Trustees of the Louisiana
State Employees' Retirement System**

Newly Elected Trustees
(LAC 58:I.301 and 501)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes to amend LAC 58:I.301 and 501. The proposed Rule amendments affect newly elected trustees and will move the orientation for these new trustees from the board meeting in December to the following month of January.

These Rule amendments comply with and are enabled by R.S. 11:511 and 515.

**Title 58
RETIREMENT**

**Part I. Louisiana State Employees' Retirement System
Chapter 3. Election of Active Member Trustees**

§301. General Schedule of Elections

- A. ...
- B. The schedule for elections shall be as follows:
 1. - 7. ...

8. January following election: newly elected members receive orientation; oaths shall be taken prior to the regular January meeting.

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 22:373 (May 1996), amended LR 23:996 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000), LR 33:

Chapter 5. Election of Retired Member Trustees

§501. General Schedule of Elections

- A. ...
- B. The schedule for elections shall be as follows:
 1. - 7 ...

8. January following election: newly elected members receive orientation; oaths shall be taken prior to the regular January meeting.

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 22:373 (May 1996), amended LR 23:997 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000), LR 33:

Family Impact Statement

The proposed amendments of LAC 58:I.301 and 501 are designed simply to move the orientation for newly elected members of the LASERS board of trustees back one month. These regulations should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

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

No preamble for this Rule is necessary. Interested persons may submit written comments on the proposed changes until 4:30 p.m., April 30, 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: Newly Elected Trustees

- 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 these rule changes.
- 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 these rule changes.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule simply moves the date for orientation of newly elected members of the LASERS board of trustees back one month, from the December board meeting immediately following the election to the next month (January). Newly elected active and retired members of LASERS board of trustees will be directly affected. No non-governmental groups will be directly affected. LASERS expects no associated costs or economic benefits to result from the proposed rule amendments.
- 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 changes.

Cindy Rougeou
Executive Director
0703#023

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
Board of Trustees of the Teachers' Retirement System**

**Monthly Salaries and Contributions Report
(LAC 58:III.101)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Trustees of Teachers' Retirement System of Louisiana (TRSL) adopted the following Notice of Intent to amend LAC 58:III.101 regarding the submission requirements for monthly contribution reports and to implement submission requirements for contributions correction reports. These amendments and additions are all in accordance with authority granted the TRSL Board of Trustees in R.S. 11:873(2). The following provisions shall become effective July 1, 2007.

**Title 58
RETIREMENT**

**Part III. Teachers' Retirement System of Louisiana
Chapter 1. General Provisions**

§101. Mandatory Submission of Monthly Salaries and Contributions Reports and Contributions Correction Reports (Form 4B)

A. Monthly Salaries and Contributions Reports. Each month all employers shall certify to the Board of Trustees,

by means of file transfer protocol, diskette, or by on-line web based reporting, the amounts of each employee's salary, and the amounts of deductions from the employee's salary to be paid to the annuity savings fund and then credited to the individual accounts of the employee from whose compensation the deductions were made. All file transfer protocol, diskette, and web based reporting formats must be in compliance with criteria established by Teachers' Retirement System of Louisiana as provided in the Employer Procedures Manual. All certified monthly salaries and contributions reports must be submitted by the 15th day of the month following the month covered by the report.

1. All employers with 25 or more employees being reported must submit monthly salaries and contributions reports by file transfer protocol or by diskette.

2. All employers reporting fewer than 25 employees must submit monthly salaries and contributions reports by file transfer protocol, diskette, or Teachers' Retirement System of Louisiana's secure on-line web-based inquiry system.

B. Contributions Correction Reports (Form 4B)

1. All employers must submit Contributions Correction Reports (Form 4B) using Teachers' Retirement System of Louisiana's secure on-line web-based inquiry system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:873(2).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1242 (December 1996), repromulgated LR 24:499 (March 1998), amended LR 33:

Family Impact Statement

The proposed amendment of LAC 58:III.101 concerns the required method of reporting monthly salary, employee and employer contributions as well as the required method of correcting monthly salary, employee and employer contributions. This regulation should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

Interested persons may comment on the proposed Rule in writing until 4:30 p.m., May 4, 2007, to A. Stuart Cagle, Jr., Deputy Director, Teachers' Retirement System of Louisiana, P. O. Box 94123, Baton Rouge, LA 70804-9123.

A. Stuart Cagle, Jr.
Deputy Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Monthly Salaries
and Contributions Report**

**Title 76
WILDLIFE AND FISHERIES
Part I. Wildlife and Fisheries Commission and
Agencies Thereunder**

**Chapter 3. Special Powers and Duties
Subchapter C. Hunter Education Program**

§312. Hunter Education Program Certification Policy

A. The Wildlife and Fisheries Commission shall be the sole authority for establishing minimum requirements for certification of student and volunteer instructors and for the overall administration of the Louisiana Hunter Education Program. The Louisiana Hunter Education Program shall meet the minimum performance guidelines for the basic hunter education course as set forth by the International Hunter Education Association Hunter Education Standards.

B. The Department of Wildlife and Fisheries shall maintain an electronic database of all students and active instructors who have successfully met the requirements for certification.

C. Requirements for hunter education student certification shall be as follows:

1. For the standard taught hunter education course:

a. attend a minimum of 10 hours of required instruction;

b. complete a written exam prepared by the Louisiana Hunter Education Program exhibiting the required proficiency;

c. demonstrate the ability to safely handle hunting firearms; and

d. upon successful completion of the requirements, students shall receive credentials that validate such;

e. provide the required information necessary to complete a student application form.

2. For the home study program:

a. complete the required computer course as set forth by the Louisiana Hunter Education Program;

b. attend a field day scheduled through the Louisiana Hunter Education Program;

c. complete a written exam prepared by the Louisiana Hunter Education Program;

d. demonstrate the ability to safely handle hunting firearms; and

e. upon successful completion of the requirements, students shall receive credentials that validate such;

f. provide the required information necessary to complete a student application form.

D. Requirements for bowhunter education certification shall be as follows:

1. successfully complete the required bowhunter education course as set forth by the Louisiana Hunter Education Program in accordance with the National Bowhunter Education Foundation;

2. provide the required information necessary to complete a student application form.

E. Minimum age for certification in all courses within the Louisiana Hunter Education Program shall be 10 years of age.

F. All persons ages 10 and 11 who are hunter education certified, while hunting in the state of Louisiana, are to be accompanied by and under the direct supervision of a person who is 18 years of age or older and has a valid hunting license or proof of successful completion of a hunter

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

There may be no, or minimal implementation costs to state or local government units. Under this rule, nine (9) employers would be required to submit their Monthly Salaries and Contributions Report via file transfer protocol or diskette in an encrypted format. These nine (9) employers may be required to purchase encryption software, which runs about \$99 and potential programming cost, which can vary depending on the sophistication of the employers' payroll system.

Currently, Contributions Correction Reports (Form 4B) are accepted in hardcopy form, or via Teachers' Retirement System of Louisiana's on-line web based Inquiry System. All employers have the ability to access, or request access, to Teachers' Retirement System of Louisiana's on-line web based Inquiry System and can submit Contributions Correction Reports (Form 4B) via the on-line web based Inquiry System at no additional cost. By utilizing this system, they know that the correction has been received and processed.

By requiring employers to report electronically through one of these secure methods, Teachers' Retirement System of Louisiana is adding additional security to protect our members' information. This also has a significant impact in decreasing the workload of the Teachers' Retirement System staff as well as the staff of our reporting employers.

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

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

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

No non-governmental groups or persons will be directly affected by this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

A. Stuart Cagle, Jr.
Deputy Director
0703#084

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Hunter Education Certification (LAC 76:I.312)

The Wildlife and Fisheries Commission does hereby advertise their intent to establish regulations for mandatory hunter education certification.

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.

education course approved by the department in order for that certification to be valid. Direct supervision means that the person being supervised shall be within normal audible voice proximity and in direct line of sight of the supervising adult at all times.

G. Requirements for volunteer instructor certification shall be as follows:

1. complete a minimum of 12 hours of classroom and field instructions;
2. pass a written exam prepared by the Louisiana Hunter Education Program;
3. demonstrate the ability to lead students through exercises that exhibit the safe handling of hunting firearms; and
4. upon successful completion of instructor training, candidates shall be certified for an initial two year period. Recertification shall be contingent on continued participation in the Louisiana Hunter Education Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:699.3

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 33:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments on the proposed Rule to John E. Sturgis, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than Thursday, May 3, 2007.

Earl P. King, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Hunter Education Certification

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

There will be no costs or savings and no increase or decrease in workload or paperwork as a result of implementation of this rule.

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

The proposed rule will have no effect on revenue collections of state or local governmental units.

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

Though never officially adopted by the Commission, the current hunter education program has operated under this policy for years. Therefore, no additional costs, workload, paperwork or economic benefits to directly affected persons or non-governmental groups will be incurred.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment in the public or private sector.

Wynette Kees
Deputy Undersecretary
0703#034

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Lease Moratorium (LAC 76:VII.505)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend LAC 76:VII.505, which provides for a moratorium on the issuance of oyster leases. Said Rule is attached and made a part of this Notice of Intent.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§505. Oyster Lease Moratorium

A. A moratorium on the issuance of oyster leases for waterbottoms not presently under lease is established. This includes a moratorium on the taking of oyster lease applications for waterbottoms not presently under lease. Applications pending at the time of the March 07, 2002 moratorium may be processed. This includes all pending applications that have been held, along with all fees paid, unless the applicant requested cancellation of the application and refund of fees. In the event of the death of an applicant, the applicant's heirs or legatees should so notify the department; and any lease ultimately issued shall only issue to persons placed in possession of the application by Judgment of Possession or to a court-appointed administrator or executor on behalf of a deceased applicant's estate.

B. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), R.S. 56:422, R.S. 56:425, R.S. 56:429, and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 10:948 (November 1984), amended LR 29:374 (March 2003), 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 connect 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 comments relative to the proposed Rule to Heather Warner-Finley, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 prior to May 3, 2007.

Earl P. King, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Oyster Lease Moratorium**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Implementation of the proposed rule will be carried out using existing staff and funding levels. No increase or decrease in costs is anticipated to implement the proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
State revenue collections from leasing water bottom acreage for the cultivation of oysters are anticipated to increase by approximately \$104,622 over the next two fiscal years.

Additionally, local and state revenue collections from various tax sources are anticipated to increase slightly from expenditures incurred and income derived from producing marketable oysters on these leased water bottoms.

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

The proposed rule change will remove the moratorium on all pending oyster lease applications received prior to the implementation of the current moratorium on March 7, 2002. There are an estimated 537 pending water bottom lease applications from approximately 240 entities. These entities will be directly affected from the proposed rule change when their application(s) are processed. They will be able to cultivate oysters on the leased acres and derive income from the sale of marketable oysters harvested from the leased acres.

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

The proposed rule is anticipated to have little or no effect on competition and employment in the public and private sectors.

Wynette Kees
Deputy Undersecretary
0703#035

Robert E. Hosse
Staff Director
Legislative Fiscal Office