

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Horticulture Commission

Retail Florists (LAC 7:XXIX.102, 117 and 123)

In accordance with R.S. 49:953(A)(1)(a), notice is hereby given that the Horticulture Commission intends to adopt amendments to its regulations. The proposed amendments add a preamble to the definitions in the regulations, define floral design, clarify the wording of existing professional standards and requirements for retail florists, establish additional professional standards for retail florists, and consolidate into one Section professional and occupational requirements that were in two Sections.

These regulations comply with the statutory law administered by the Horticulture Commission and are enabled by R.S. 3:3801(F) and R.S. 3:3804(A).

Title 7

AGRICULTURE AND ANIMALS

Part XXIX. Horticulture Commission

Chapter 1. Horticulture

§102. Definitions

A. The words and terms defined in R.S. 3:3803 are applicable to this Chapter.

B. The following words and terms are defined for the purpose of enforcing the provisions of R.S. 3:3801 et seq.

* * *

Floral Design—an arrangement of cut flowers, ornamental plants, other living or freshly cut plant materials, or any combination thereof intentionally constructed so as to constitute a planned relationship among them.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3804.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Horticulture Commission, LR 26:627 (April 2000), amended LR 33:

§117. Professional and Occupational Standards and Requirements

A. Retail Florist

1. Professional Standards

a. All cut flowers, ornamental plants, and living or freshly cut plant materials sold or offered for sale must be fresh, of high quality, and free from injurious insects, diseases, and other pests. No plant material of low quality and no wilted or dead plant materials may be offered for sale to the general public or sold to a consumer except when specifically requested by the consumer.

b. Floral designs, cut flowers, ornamental plants, and living or freshly cut plant materials must be cared for in a manner that, to the extent reasonably possible, maintains their freshness and increases their longevity.

c. Coolers where floral designs, cut flowers, ornamental plants, or living or freshly cut plant materials, are kept or stored must be clean and maintained at a

temperature conducive to prolonging the freshness of the said products kept or stored in the coolers.

d. Containers holding cut flowers or living or freshly cut plant materials must be maintained in a manner that does not adversely affect the cut flowers or plant material. Water in containers must be changed periodically so as to remain clean at all times.

e. Floral designs shall be prepared in a good and workmanlike manner and shall satisfy the consumer's requests that are objective in nature. All reasonable efforts should be made to satisfy the consumer's requests that are subjective in nature. All floral designs must be constructed in such a manner as to remain intact during transportation.

f. All wires, steel picks, corsage pins, and other sharp objects employed in the construction of a floral design must be used in a manner that will maintain the integrity of the floral design while minimizing the risk of injury to any person handling the floral design.

g. Compliance with equivalent procedures and techniques set forth in James L. Johnson, William J. McKinley, Jr. and M. Buddy Benz, *Flowers: Creative Design* (San Jacinto Publishing Co. 7th ed. 2001; distributed by Texas A&M Univ. Press) will establish a rebuttable presumption of compliance by the licensee with these professional standards.

2. Requirements

a. Retail florist shops that lose their licensed florist will be granted a grace period of 90 days of operating without the services of a full-time licensed florist. This grace period shall end 90 days from that date. The purpose of this grace period is to provide the florist shop an opportunity to employ a licensed person. This grace period can only be used once in a 12-month period. Retail florist shops shall cease to engage in the profession of retail florist after the grace period has been exhausted. In the event a retail florist shop, despite reasonable prevention efforts, loses its only or only remaining regularly employed licensed retail florist, the florist shop must replace the regularly employed licensed retail florist as soon as possible but in no event more than 90 days from the first day the retail florist shop operated without a regularly employed licensed retail florist. Notwithstanding the foregoing, no retail florist shop shall operate without a regularly licensed retail florist for more than a total of 90 days in any 12-month period that follows the first day of operation without a regularly employed licensed retail florist.

b. Retail florists may rent potted ornamental plants for special events such as weddings, conventions, trade shows, etc., if such plants are normally and customarily sold by florists and such plants do not require maintenance, other than normal watering. Plants rented by retail florists for a special event shall be rented only for the duration of that special event.

B. Landscape Architect

1. - 5h. ...

C. Wholesale Florist

1. - 3. ...

D. Horticulturist

1. - 5. ...

E. Arborist

1. - 9. ...

F. Landscape Contractor

1. - 6. ...

G. Nursery Stock Dealer

1. - 6. ...

H. Cut Flower Dealer

1. - 3. ...

4. The restriction against a cut flower dealer locating within 300 feet of an established retail florist shall not apply to cut flower dealers in permanent locations. In addition, cut flower dealers operating from a mobile unit shall not sell cut flowers, within 300 feet of place of business that holds a cut flower dealer's permit.

I. Utility Arborist

1. - 5. ...

J. Landscape Irrigation Contractor

1. - 4. ...

5. The following clarifications apply to licensed landscape irrigation contractors.

a. A licensed landscape irrigation contractor is not required to have a water supply protection specialist endorsement from the State Plumbing Board in order to install an irrigation system up to the point of connecting the irrigation system to a public or private water supply system or installing a backflow prevention device.

b. A licensed landscape irrigation contractor shall also have a water supply protection specialist endorsement from the State Plumbing Board before connecting any irrigation system to a public or private water supply system or installing a backflow prevention device, pursuant to R.S. 3:3808(P)(4), (5).

c. A governing authority, such as a parish or municipality, shall issue all necessary permits, including necessary electrical permits, to a licensed landscape irrigation contractor who does not hold a water supply protection specialist endorsement for the installation of an irrigation system, except for those permits that would allow such a licensed landscape irrigation contractor to connect the irrigation system to a public or private water supply system or install a backflow prevention device.

d. A governing authority, such as a parish or municipality shall issue all necessary permits to a licensed landscape irrigation contractor who holds a water supply protection specialist endorsement from the State Plumbing Board for the installation of an irrigation system, including necessary electrical permits and those permits that would allow such a licensed landscape irrigation contractor to connect the irrigation system to a public or private water supply system or install a backflow prevention device.

e. A licensed landscape irrigation contractor who also holds a water supply protection specialist endorsement from the State Plumbing Board is required by R.S. 3:3816(6) to install backflow prevention devices in accordance with ordinances adopted by local governing authorities, such as parishes and municipalities, regulating the installation of backflow prevention devices. If a local governing authority

does not have an ordinance regulating the installation of backflow prevention devices, such devices shall be installed in accordance with the requirements of Part XIV (Plumbing) of the Sanitary Code, State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3808, and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20:640 (June 1994), LR 27:1832 (November 2001), LR 31:1054 (May 2005), LR 32:1010 (June 2006), LR 33:

§123. Clarifications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3808 and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:187 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 31:1054 (May 2005), repealed LR 33:

Family Impact Statement

The proposed amendments to Rule LAC 7:XXIX.102, 117 and 123 regarding professional standards and requirements for retail florists should not have any known or foreseeable impact on any family as defined by R.S. 49:972D 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 May 23, 2007 to Craig Roussel, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. No preamble concerning the proposed Rule is available.

Bob Odom
Commissioner

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

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no anticipated increase in costs to state or local agencies to implement the proposed rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state and local government units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There will be no impact of the proposed rule on competition and employment.

Skip Rhorer
Assistant Commissioner
0704#049

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)

Editor's Note: The following Notice of Intent is being repromulgated to correct an error upon submission. This Notice of Intent can be viewed in the March 2007 *Louisiana Register*.

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.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

**Chapter 16. Louisiana Entertainment Industry Tax
Credit Programs**

**Subchapter A. Louisiana Motion Picture Investor Tax
Credit Program**

**§1601. Purpose and Description of Louisiana Motion
Picture Investor Tax Credit Program**

A. The purpose of this program is to encourage the development in Louisiana of a strong capital and infrastructure base for motion picture film, videotape, digital, and television program productions, in order to achieve an independent, self-supporting industry in this state, and to encourage development of a Louisiana film, video, television and digital production and post-production infrastructure with state-of-the-art facilities.

B. Approvals and certifications required for Louisiana Motion Picture Investor Tax Credits (Investor Tax Credits) are not to be considered as entitlements for companies locating or located in Louisiana and the Louisiana Office of Entertainment Industries Development and the Louisiana Department of Economic Development have the discretion to determine whether or not each particular investor and application meet the criteria for such approvals and certifications as provided herein, and in all such circumstances, the exercise of that discretion shall be deemed to be a final determination of such status.

C. Approvals of applications shall not result in a duplication of tax credits for the same assets. The tax credit granted for qualified expenditures on tangible assets shall

not, in the aggregate, exceed the maximum applicable tax credit rate multiplied by the acquisition cost of the asset, as reflected in the first approved application for an investor tax credit.

**D. General Description of the Louisiana Motion Picture
Investment Tax Credit**

1. Louisiana Motion Picture Investment Tax Credit. The Louisiana Motion Picture Investment Tax Credit is comprised of a percentage of an investor's base investment made and expended in the state in either a state-certified production or a state-certified infrastructure project.

2. Infrastructure Portion of the Investment Tax Credit. Additionally, for tax years beginning before January 1, 2008, each taxpayer whose base investment totals greater than \$300,000 will be allowed an additional credit of 15 percent of the base investment made by that taxpayer that is expended on a state-certified infrastructure project.

3. Payroll Portion of the Investment Tax Credit. Finally, each investor whose base investment includes expenditures on payroll for Louisiana residents employed in connection with a state-certified production shall be allowed an additional credit of 10 percent of such payroll.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industries Development, LR 33:

§1602. Definitions

A. The following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

Allocatee—an individual or entity that received an allocation of investment tax credits.

Allocator—an individual or entity that makes an allocation of investment tax credits.

Base Investment—the actual investment made and expended by:

a. a state-certified production in the state as production expenditures incurred in this state that are directly used in state-certified production or productions;

b. a person in the development of a state-certified infrastructure project. Infrastructure expenditures shall include expenditures for infrastructure project development, film and television production spaces, post-production equipment, facilities, system access and equipment for distribution companies domiciled within Louisiana, land acquisition and closing costs, construction costs, design and professional consulting fees associated with the state-certified infrastructure project, furniture, fixtures, equipment, financing costs and comprehensive workforce training, not including tuition. Infrastructure expenditures shall not include indirect costs, any amounts that are later reimbursed by a third party, any costs related to the allocation or transfer of tax credits, or any amounts that are paid to persons or entities as a result of their participation in profits from the exploitation of the State-Certified Infrastructure Project.

Commissioner—the Commissioner of the Division of Administration.

Department—the Louisiana Department of Economic Development, or its successor.

Developer—a person in the development of a state-certification infrastructure project.

Director—the director of the Louisiana Office of Entertainment Industries Development (the Office).

Division—the Division of Administration.

Expended by a State-Certified Production in the State [for purposes of R.S. 47:6007(B)(1)]—

a. in the case of tangible property, property which is acquired from a source within the state;

b. and in the case of services, shall mean procured from within the state and performed in the state;

c. that are provided by an individual or entity duly qualified to do business in Louisiana and offering such goods or services for sale in the ordinary course of its Louisiana business.

Louisiana Resident—residency shall be established if in exchange for employment with a motion picture production company the individual agrees in writing to file a Form IT 540, as a full year Louisiana resident, or Form IT 540B, as a part year resident, for his taxable year employed by the motion picture production company and to pay the Louisiana income tax shown thereon. *Resident* or *resident of Louisiana* means a natural person and, for the purpose of determining eligibility for the tax incentives, any person domiciled in the state of Louisiana and any other person who maintains a permanent place of abode within the state and spends in the aggregate more than six months of each year within the state.

Office—the Office of Entertainment Industries Development.

Payroll Expended on Louisiana Residents—the full amount of salary, wages, or other compensation and related benefits actually paid to or on behalf of any Louisiana resident that renders services to the production within the state of Louisiana including union pension and welfare contributions and retirement benefits but shall not include federal and state taxes imposed solely on the employer, for example, the employer's share of Social Security.

Secretary—the Secretary of the Department of Economic Development.

Slate of Productions—more than one state-certified production being financed, produced or distributed by or on behalf of the same motion picture production company or an affiliate grouped together in such a way that the group meets the minimum in-state spend of \$300,000. If one project in the group is over \$300,000; then that project shall be considered an individual project and no additional projects shall be added to that so as to earn tax credits for the slate.

State-Certified Infrastructure Project—an infrastructure project that meets the definition of a State of the Art Production Facility and is approved by the Office of Entertainment Industries Development, the Department of Economic Development and the Division of Administration. The term *infrastructure project* shall not include movie theaters or other commercial exhibition facilities.

State-Certified Production—a production approved by the Office of Entertainment Industries Development and the Department of Economic Development produced by a motion picture production company domiciled and headquartered in Louisiana which has a viable multi-market commercial distribution plan.

State of the Art Production Facility—a physical facility that provides all or substantially all of the goods and services necessary for completing the major activities of a

production. The office has discretion to determine whether infrastructure projects are state of the art in accordance with industry needs and standards. The following list is illustrative of such facilities:

- a. Postproduction Editing Suites and Labs:
 - i. Avid Symphony Suites, Avid Xpress Deluxe Lab, Avid Media Composer Lab, Avid DS Nitris Lab;
 - ii. Final Cut Pro Labs;
- b. Recording Studios and Labs:
 - i. Postproduction Suites;
 - ii. Digidesign Pro Tools Labs;
 - iii. MIDI Lab;
 - iv. Analog Mix Lab;
 - v. Audiotronics Lab;
- c. Soundstages and Equipment:
 - i. Soundstages;
 - ii. ARRI 35mm Film Cameras, ARRI 16mm Film Cameras;
 - iii. Chapman Cranes;
 - iv. Lighting / Grip Lab;
 - v. Dubbing Stage and Greenscreen Area;
 - vi. High-Definition Cameras;
- d. Digital Media Production Labs:
 - i. Mac Audio or Animation Lab, Mac G5 Lab;
 - ii. PC Audio Lab;
 - iii. Game Development Labs;
 - iv. Animation Preproduction Lab;
 - v. 2D Animation Studio;
 - vi. Computer Animation Center;
- e. Miscellaneous: Film Processing Labs, Digital Transfer Services;
- f. music and sound studios should include mixing and recording studios featuring a stage large enough to accommodate a full orchestra for scoring;
- g. soundstages should include sound-isolated carpentry shops adjacent to stages, dressing rooms with private bath and shower, washer-dryers, green rooms, hair and makeup, wardrobe rooms, rehearsal space, controls rooms and offices. Multiple load-in options including a large street-level freight elevator should be available to facilitate delivery and setup of materials. Screening rooms should also be included. Facilities should be capable of providing both fiber-optic and satellite connectivity for broadcasting live or pre-recorded content anywhere in the world. These technologies can also be used for conducting teleconferences or beaming "dailies" back to headquarters. High-speed broadband Internet access is also important. Soundstages, with a towering 35 to 45 foot grid height, are (ideally) column-free, sound-insulated, and offer unsurpassed loading and staging areas. They should be built to accommodate film, high-definition television (HDTV) and digital camera productions, with stages ranging from 120 feet wide, wired with a minimum of 9,000 amps of power and 300 to 200 tons of cooling.

Transferee—an individual or entity that receives a transfer of investor tax credits.

Transferor—an individual or entity that makes a transfer of an investor tax credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industries Development, LR 33:

§1603. Application for the Motion Picture Investor Tax Credit

A. An applicant for the motion picture investor tax credit shall submit an application for initial certification to the Office of Entertainment Industries Development that includes all of the information required by R.S. 47:6007 D(2)(a); and an application fee payable to the Department of Economic Development or the state of Louisiana shall be submitted with the application determined as provided in R.S. 47:6007 D(2)(b).

B. Rules of Application. The investor tax credit authorized by R.S. 47:6007 C(1) may be earned, transferred, allocated, and claimed as follows.

1. Individuals or entities (other than motion picture production companies) may earn investor tax credits pursuant to R.S. 47:6007 C(1).

2. Once investor tax credits are earned by an individual or entity, such individual or entity and any subsequent transferee may transfer or allocate the investor tax credits in one or more of the following ways:

a. *transfer*—by transferring or selling all or a portion of the investor tax credits to any individual or entity; or

b. *allocation*—if the investor tax credits are earned by, or allocated or transferred to, an entity not taxed as a corporation the entity may allocate the credit by issuing ownership interests to any individuals or other entities on such terms that are agreed to by the relevant parties and in accordance with the terms of the allocating entity's operating agreement or partnership agreement which terms may result in the allocation of up to 100 percent of the investor tax credits to any individual or entity regardless of the federal tax treatment of the allocation:

i. the allocating entity:

(a). may be treated as a "partnership" for federal or state tax purposes; or

(b). may be treated as an entity that is disregarded as an entity separate from its owners for federal or state tax purposes, and in which case, each holder may agree that it will not treat the allocating entity as a "partnership" or itself as a "partner" or the ownership interest in the allocating entity as a "partnership interest" for federal tax or state tax purposes.

3. A state-certified production or a state-certified infrastructure project earns tax credits when its actual expenditures are approved as qualifying expenditures pursuant to these rules. However, credits can not be applied against a tax or transferred until the expenditures are certified by the Department of Economic Development, the Office of Entertainment Industries Development and the Division of Administration (for infrastructure tax credits).

4.a. An owner of tax credits may apply the credits to offset an outstanding Louisiana income tax liability for any tax year beginning in the year that the investor initially earned the tax credit or in any year thereafter within the 10-year carryforward period.

b. In the case of tax credits owned (held) by an entity not taxed as a corporation, the credits shall be deemed to flow through or be allocated to partners or members at the end of the tax year in which the entity acquired the credits unless the partnership or membership agreement provides specifically for an earlier distribution during the tax year.

5. Any individual or entity shall be allowed to claim the investor tax credit authorized by R.S. 47:6007(C)(1) against its Louisiana income tax liability:

a. whether or not any such individual is a Louisiana resident; and

b. whether or not any such entity is domiciled in Louisiana, organized under Louisiana law, or headquartered in Louisiana.

6. An Investor Tax Credit, in the hands of the taxpayer that earned the credit or received it by flow-through, cannot be used to eliminate any penalties and interest on overdue income taxes from prior tax years. However, an Investor Tax Credit that is purchased is treated as property and can be applied to penalties and interest on overdue income taxes from prior tax years pursuant to R.S. 47:1675(H)(1)(c). Penalties and interest will continue to accrue until the taxes on which such penalties and interest are accruing are paid. The date of payment is the date that the Louisiana Department of Revenue receives a return from a taxpayer on which the Investor Tax Credits are claimed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industries Development, LR 33:

§1604. Certification of Investor Tax Credits

A. Preliminary Certification. The office and the department shall issue preliminary certifications of productions and infrastructure projects. A preliminary certification shall be issued as follows.

1. To obtain the preliminary certification from the office and the department for a "state-certified infrastructure project" or for a "state-certified production or slate of productions" as required by R.S. 47:6007(B)(9) and (10), the applicant must submit a written request to the director and the secretary of the department requesting approval of the production as a "state-certified production" or a state of the art production facility as a "state-certified infrastructure project" and setting forth the following information:

a. working title of the production or infrastructure project for which approval is requested;

b. name of the requesting production or infrastructure company;

c. name, telephone number, e-mail address and attesting signature of the requesting production or infrastructure company's contact person;

d. approximate beginning and ending date of production or construction in Louisiana;

e. Louisiana office address;

f. telephone number of requesting company's Louisiana office address;

g. estimated total production-related costs of production or total costs associated with the infrastructure project for which approval is requested;

h. estimated total amount of production-related costs to be expended in Louisiana in connection with the production for which approval is requested;

i. estimated percentage of each of pre-production, production, and post-production work to be performed in Louisiana in connection with the production for which approval is requested;

j. estimated total payroll to be paid by the requesting production company to Louisiana residents

employed by the requesting production company in connection with the production for which approval is requested, excluding any employee to be paid in excess of \$1 million;

k. detailed preliminary budget;

l. for production seeking approval, a copy of script (including synopsis) and for infrastructure projects, a detailed business plan outlining the exact costs of what is proposed for the project;

m. list of principal creative elements such as principal cast, producer, director, music producer, and music supervisor; and

n. facts sufficient for the office and the department to determine each of the following:

i. that the requesting production company is a motion picture production company as defined in R.S. 47:6007(B)(5);

ii. that the requesting production company is domiciled and headquartered in Louisiana; and

iii. that the requesting production company has either a viable multi-market distribution plan or a signed distribution agreement with either a major theatrical exhibitor, television network or cable television programmer for distribution of the production for which approval is requested.

2. Any applicant requesting certification of a production or an infrastructure project is required to reimburse the Office of Entertainment Industries Development and the Department of Economic Development for any audits required in relation to granting the credit.

3. The office and the department shall issue their written approval of a project as a "state-certified infrastructure project" or of a production as a "state-certified production" after receiving a complete application, all supporting documents necessary to make a determination and the application fee with respect to such project or production that complies with these rules. In the alternative, if the office and the department determine that a request for approval of a project as a "state-certified infrastructure project" or of a production as a "state-certified production" received from a developer or production company is not in compliance with these rules, after receiving such request, the office and the department shall request in writing from the requesting developer or production company any information necessary in their determination for such request to comply with these rules. Upon receiving all of the requested additional information in writing from the developer or production company, and if the office and the department determine that the request for approval with respect to such project or production complies with these rules, the office and the department shall issue to the requesting developer or production company their written approval of the project as a "state-certified infrastructure project" or of a production as a "state-certified production."

B. Certifications

1. Prior to any certification of the expenditures of a state-certified production or state-certified infrastructure project and the issuance of any investor tax credits, the motion picture production company, with respect to state-certified productions, and the developer, with respect to state-certified infrastructure projects, shall submit to the

Office of Entertainment Industries Development a cost report of production expenditures or infrastructure expenditures audited and certified by an independent certified public accountant as determined this rule. Either the Department of Economic Development or the Department of Revenue may audit the cost report submitted by the motion picture production company or developer. The following procedures set forth minimum standards for acceptability of the audit to be performed by a certified public accountant. The certified public accountant's report shall at a minimum, meet the following requirements.

a. The auditor auditing the report shall be a Certified Public Accountant licensed in the state of Louisiana and shall be an independent third party, not related to the producer or developer or any known potential investor eligible for tax credits.

b. The auditor's opinion must be addressed to the party who has engaged the auditor (e.g., directors of the production company or developer, or the producer of the production).

c. The auditor's name, address, and telephone number must be evident on the report.

d. The auditor's opinion must be dated as at the completion of the audit fieldwork.

e. The audit shall be performed in accordance with auditing standards generally accepted in the United States of America.

f. The auditor shall have demonstrated sufficient knowledge of accounting principles and practices generally recognized in the film and television industry.

2. After receiving a written request from an investor for certification of expenses and upon certification of the expenditures by the Office of Entertainment Industries Development, the Department of Economic Development and the Division of Administration (for infrastructure tax credits), the office shall issue one original certificate of ownership of such investor signed by the director reflecting the investor's name, the dollar amount of investor tax credits earned by the investor pursuant to R.S. 47:6007(C) through the date of such request, the calendar or fiscal year in which the investor tax credits were earned by the investor, the state-certified infrastructure project or the state-certified production with respect to which the investor earned the investor tax credits, and the identifying number assigned to such state-certified infrastructure project, or state-certified production.

3. If the investor tax credits evidenced by a certificate of ownership are allocated, sold or transferred or allocated as provided herein, then concurrently with the submission of the notification required by R.S. 47:6007(C)(4), the transferor shall submit to the office the original certificate of ownership evidencing the investor tax credits being transferred or allocated. After receiving the original certificate of ownership evidencing the investor tax credits being transferred or allocated, the office shall issue to each transferee or allocatee indicated in the transferor's or allocator's notification a certificate of ownership signed by the director reflecting such transferee's or allocatee's name, the dollar amount of investor tax credits transferred or allocated to the transferee or allocatee, the calendar year in which the investor tax credits were originally earned by an investor pursuant to R.S. 47:6007(C), the state-certified

infrastructure project or the state-certified production with respect to which such investor earned the investor tax credits, and the identifying number assigned to such state-certified infrastructure project or state-certified production. If the certificate of ownership that the transferor or allocator submits with its notification of transfer or allocation evidences more investor tax credits than actually transferred or allocated by the transferor or allocator, then the office shall also issue a certificate of ownership to the transferor or allocator signed by the director reflecting the transferor's or allocator's name, the transferor's or allocator's remaining investor tax credit balance, the calendar or fiscal year in which the investor tax credits were originally earned by an investor pursuant to R.S. 47:6007(C), the state-certified production with respect to which such investor earned the investor tax credits, and the identifying number assigned to such state-certified production. Any person or entity engaged in the business of buying and reselling tax credits may elect to maintain its certificate of ownership on file with the office, such that it need not surrender, and have reissued, its certificate of ownership each time it sells a tax credit. In such cases, the office will issue comportsing certificates of ownership to transferees or allocates designated by the transferor or allocator in writing until such time as the tax credits represented in the transferor's or allocator's original certificate have been exhausted.

4. Any taxpayer claiming investor tax credits against its Louisiana income tax liability shall submit to the Louisiana Department of Revenue with its Louisiana income tax return for the year in which the taxpayer is claiming the investor tax credits, an original certificate of ownership issued by the office pursuant to this rule evidencing the dollar amount of the investor tax credits being claimed; provided, however, if a taxpayer is claiming an amount of investor tax credits less than that evidenced by the certificate of ownership, then, concurrently with filing its Louisiana tax return, such taxpayer shall request that the office issue to it a certificate of ownership evidencing the amount of investor tax credits to be claimed and a certificate of ownership evidencing the balance of such taxpayer's investor tax credits. After receipt of such request, the office shall issue the certificates of ownership signed by the director reflecting, in addition to the amount of investor tax credits, the taxpayer's name, the calendar or fiscal year in which the investor tax credits were originally earned by an investor pursuant to R.S. 47:6007(C), the state-certified production with respect to which such investor earned the investor tax credits, and the identifying number assigned to such state-certified production.

5. The failure of the office to issue a timely certificate of ownership in accordance with this rule shall not:

- a. void or otherwise affect, in any way, the legality or validity of any transfer of investor tax credits;
- b. prohibit any Louisiana taxpayer from claiming investor tax credits against its Louisiana income tax liability if the investor tax credits are otherwise transferred or claimed in accordance with R.S. 47: 6007 and these rules; or
- c. result in any recapture, forfeiture or other disallowance of investor tax credits under R.S. 47:6007(E) or (F) or otherwise.

6. Beginning January 1, 2006, for state-certified productions, expenditures shall be certified no more than

twice during the duration of a state-certified production unless the motion picture production company submits a fee of \$250 per additional certification to the Office of Entertainment Industries Development and the Department of Economic Development for the costs of any additional certifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industries Development, LR 33:

§1605. Base Investment Calculation

A. For purposes of R.S. 47:6007(C)(1), the total base investment of a state-certified production, slate of productions or a state-certified infrastructure project shall be calculated by including all amounts expended in the state constituting base investment if each such investment constituting a base investment is made within the period beginning 12 calendar months before and ending 12 calendar months after the date as of which the state-certified production, slate of productions or state-certified infrastructure project of the company for which base investment is being calculated was approved as a state-certified production, slate of productions or a state-certified infrastructure project by the office and the department. However, no state-certified production or state-certified infrastructure project expenditure shall be attributed to more than one production or project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industries Development, LR 33:

§1606. Infrastructure Portion of the Investor Tax Credit

A. For infrastructure projects, the department and the office may grant inventor tax credits for multiple purpose immovable and moveable assets as provided by this Section.

1. As stated in Subsection A of §1601 and with the intent of Act 456 of the 2005 Regular Session as expressed in R.S. 6007(D)(1), infrastructure project tax credits are granted to encourage development of a strong industry base for motion picture production. Consistent with this intent and purpose, the office and the department may grant tax credits for expenditures on assets that are not unique to the production of motion pictures. They may also grant tax credits for assets that are moveable. However, for any applicant requesting approval as a state-certified infrastructure project that includes either multiple purpose assets or moveable assets, the certification shall include and shall state terms and conditions as provided by Paragraphs 2 and 3 of this Subsection.

2. The office and department have the discretion to determine that real property or fixed assets having uses other than supporting a state of the art production facility may be a necessary component of a state-certified infrastructure project. In instances where applications include such multiple purpose real property or other fixed assets, the office and department shall require the applicant to provide assurances that such assets will exclusively support the approved film infrastructure project and that the applicant will not divert the use of the assets to purposes that do not promote or provide for the productions within the state of

Louisiana. Such assurances shall be secured by appropriate agreements, including, but not limited to, a requirement of approval prior to sale of such assets; a requirement for a minimum number of years before such assets may be transferred to a different owner; limitations on transferability of the tax credits for current or future holders, a reserve fund that may be re-captured by the state; or a structured release of tax credits.

3. The office and department require assurances of the applicant for a state-certified infrastructure project that moveable assets shall remain in Louisiana and be used in the production of motion pictures or other visual media productions within the state of Louisiana for not less than 80 percent of the asset's useful life. Such assurances shall be secured by appropriate agreements, including, but not limited to, a requirement of approval prior to sale of such assets; a requirement for a minimum number of years before such assets may be transferred to a different owner; limitations on transferability of the tax credits for current or future holders, a reserve fund that may be re-captured by the state; or a structured release of tax credits.

4. Any conditions to meet the requirements to this Subsection shall be explicitly stated in the certification issued for the project.

B. Prior to the issuance of any investor tax credits related to a state-certified infrastructure project, at least \$5,000,000 or 25 percent (for projects whose approved costs are less than \$20,000,000) of the project's construction and/or associated approved costs outlined in its Infrastructure Tax Credit Application(s) must be expended on the state-certified infrastructure project or the applicant shall provide in writing adequate legal and financial assurances that if credits are issued, they will have a viable financial source from which to recapture the face value of the credits that have been certified.

C. For infrastructure projects to receive the 15 percent credit in R.S. 6007(C)(1)(b)(iii), base investments must be made and expended prior to January 1, 2008. In order to provide a reasonable opportunity to complete projects started prior to this date, the department and office may consider construction work in progress as be eligible for tax credits as follows.

1. The office and department may deem work in progress as actual expenditures if all the following conditions are met.

a. There is a binding contract for the completion of the work.

b. The contract includes a completion bond.

c. The work will meet the requirements as a qualified expenditure once completed.

d. Work equal to at least 1/3 of the value of the contract is complete by January 1, 2008.

2. If a project meets the requirements of Paragraph 1 of this Subsection, then tax credits for qualifying actual expenditures may be issued. However, the remaining tax credits for a project approved as construction work in progress shall not be issued until the remaining qualifying actual expenditures are incurred and the project is complete and has been accepted from the contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industries Development, LR 33:

§1607. Payroll Portion of the Investor Tax Credit

A. To the extent base investment is expended on payroll for Louisiana residents employed in connection with a state-certified production, each investor shall be allowed an additional tax credit of 10 percent of such payroll. However, if the payroll to any one person exceeds \$1 million, this additional credit shall exclude any salary for that person that exceeds \$1 million.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industries Development, LR 33:

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 Rule to Christopher Stelly through the close of business on May 10, 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 e-mail 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 May 29, 2007 at the Department of Economic Development, 1301 North Third 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
0704#056

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—Alternate Assessment Results and District Accountability (LAC 28:LXXXIII.3905, 4302, and 4313)

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 changes to Bulletin 111 revise the use of Alternative Assessment results in accountability as suggested by the LDE's Technical Advisory Committee. Section 4302 revises District Accountability to better align with the High School Redesign efforts initiated by the governor. Section 4313 defines the requirements for exiting District Improvement in anticipation of districts' first opportunity to exit.

**Title 28
EDUCATION**

**Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System
Chapter 39. Inclusion of Students with Disabilities
§3905 Inclusion of Alternate Assessment Results**

- A. ...
- B. LAA 1 scores shall be converted according to the following scale through 2005-06 and for the 2006-07 Growth SPS.

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

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

2. Beginning with the 2006-07 Baseline SPS, LAA1 scores shall be used in accountability, primarily, by measuring growth on the LAA1 exam from 1 year to the next as shown in the following table.

LAA 1 Achievement Levels	Scaled Score Growth Range	Points for Accountability
Substantial Growth	> 7.50	200
Moderate Growth	2.51 to 7.50	150
Minimal Growth	0.0 to 2.50	100
No Measurable Growth	≤ 0.0	0

a. Any student appropriately taking LAA1 exams with consecutive years' scores shall be evaluated using this growth method.

b. Third-graders taking the LAA1 assessment shall be included in accountability according to the following table.

LAA 1 Scaled Score	Level	Assessment Points
> 25	IV	200
20.0 to 24.9	III	150
15.0 to 19.9	II	100
0.0 to 14.9	I	0

c. For Subgroup Component evaluations, third-graders shall be considered proficient if they score at Level II, III, or IV on the appropriate subject level tests. Students assigned growth labels of Minimal Growth or higher shall be considered proficient.

d. Students in grades 4-11 that do not have a score from the prior year from which to measure growth shall be considered participants but will not have scores included in accountability calculations or decisions.

C. - D. ...

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 30:767 (April 2004), LR 31:2763 (November 2005), LR 33:254 (February 2007), LR 33:

Chapter 43. District Accountability

§4302. District Responsibility Indicators

A. Teacher Certification Indicator. The Teacher Certification Indicator is based on the percentage of state core classes (English, mathematics, science, and social studies) taught by three categories of teachers, those with:

1. standard teaching certificate for area of assignment;
2. non-standard certificate for area of assignment (out of field or temporary authority—TAT, OFAT, TEP);
3. no authority to teach (no certification).

B.1. The LDE shall calculate two teacher certification indices:

- a. low performing schools (one star and academically unacceptable);
- b. other schools—not low performing (two star and above).

2. In instances when a district's schools all fall into 1 category (low performing or other), the index for that category shall also be considered the overall teacher certification indicator.

3. The low performing school index is assigned a 75 percent weighting and the other school index a 25 percent weighting in the teacher certification indicator.

4. Each teacher certification index is calculated by first determining the percentage of state core classes taught by each of the three categories of teachers in the appropriate school group (low performing or other—not low performing).

5. The percentages of state core classes taught by teachers in each category are weighted and converted to points by the following factors:

- a. 1.0 times the percentage of classes taught by teachers with standard certification;
- b. 0.5 times the percentage of classes taught by teachers with non-standard certification;
- c. 0.0 times the percentage of classes taught by teachers with no authority to teach.

6. Sum the weighted points for low performing schools and again for other schools.

7. Weight the low performing schools point total by 75 percent.

8. Weight the other schools point total by 25 percent.

9. The district teacher certification Indicator is the sum of the values from Paragraphs 8 and 9 (above).

10. Example of the Calculation of the District Teacher Certification Indicator

District Teacher Certification Indicator Calculation					
Certification	Assigned Value	Percentage in Low Performing Schools	Points	Percentage in Other Schools	Points
Standard	1.0	92.4%	92.4	92.2%	92.2
Non-Standard	0.5	5.0%	2.5	4.8%	2.4
No Authority to Teach	0.0	2.6%	0.0	3.0%	0.0
Subtotals			94.9		94.6
Low Performing Weight		75%	x 94.9	Low Performing Weighted Value	
Other Schools Weight		25%	x 94.6	Other Schools' Weighted Value	
				Teacher Certification Indicator	
				94.9	

11. Districts shall be assigned a label based on the value of the District Teacher Certification Indicator as follows.

District Teacher Certification Indicator	
Indicator Value	Label
97.0 – 100.0	Exceptional
94.0 – 96.9	Adequate
90.0 – 93.9	Marginal
< 90.0	Unacceptable

B. Eighth Grade Persistence Indicator. The 8th Grade Persistence Indicator is based on a District's success at keeping 8th grade students enrolled in school.

1. The 8th Grade Persistence Indicator shall be calculated using an aggregate of two years of student data, and because of extensive time afforded Districts to correct exit data, it shall use data lagged by 1 year.

a. Example

The Spring 2007 8th Grade Persistence Indicator shall be calculated using data from academic years 2003-04 and 2004-05.

2. Students enrolled in a District for at least one full day of a given academic year, less those students exiting the District School System for legitimate reasons (as defined in the Student Information System User Guide) shall be included in the denominator used to calculate the 8th Grade Persistence Indicator.

3. Since the calculation aggregates two years of student data, those students eligible for inclusion in the denominator in one or both of the appropriate two years shall provide the count to be used as the denominator.

4. The numerator is comprised of those students in the denominator who are enrolled in public education for at least one day the following academic year.

5. Example of the Calculation of the District 8th Grade Persistence Indicator

District 8th Grade Persistence Indicator Calculation						
Enrolled			Returned Oct 1			
2003-04	2004-05	Total	2004	2005	Total	Percent Returned
669	713	1382	660	702	1362	98.6%

6. Districts shall be assigned a label based on the value of the District 8th Grade Persistence Indicator as follows.

District 8th Grade Persistence Indicator	
Indicator Value	Label
98.0-100.0	Exceptional
96.0-97.9	Adequate
94.0-95.9	Marginal
< 94.0	Unacceptable

C. Financial Risk Indicator. The factors included in the Financial Risk Indicator were originally developed in 2004-05. They are currently (August, 2006) under review at the request of the Board of Elementary and Secondary Education. The use of this data as a District Responsibility Indicator will be defined following any needed revisions.

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

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

§4313. Corrective Actions

A. The Louisiana Department of Education shall report district scores and labels on every school district.

B. Beginning in 2004, Districts shall be evaluated on their District Responsibility Index label and on the subgroup component. Districts that receive a DRI Index label of Unresponsive and/or fail all clusters, in the same subject, on the subgroup component shall complete a district self-assessment and submit it to the Louisiana Department of Education. Following the Spring 2006 District accountability release, the District Responsibility Index and the associated labels shall be discontinued. At that time, Districts must complete a self-assessment only after failing all 3 clusters in the same subject.

1. The DOE shall review each self-assessment.

2. The DOE may recommend that BESE schedule a District Dialogue with the District.

C. - 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. An example is in the following table.

Examples of Districts that entered District Improvement (DI) in 2004 due to math results.							
Cluster Performance	2005			2006			Result
	K-5	6-8	9-12	K-5	6-8	9-12	
	Pass	Fail	Fail	Fail	Pass	Pass	
Pass	Pass	Pass	Fail	Fail	Fail	Advance to DI Level 2	
Pass	Fail	Fail	Pass	Fail	Fail	Exit DI	
Fail	Pass	Pass	Fail	Fail	Pass	Exit DI	

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:

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., June 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—Alternate Assessment Results and District Accountability**

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

The changes to Bulletin 111 Chapter 3905 revise the use of Alternative Assessment results in accountability. Chapter 4302 is revised to better align District Accountability with the High School Redesign efforts initiated by the Governor, and changes to Chapter 4313 define the requirements for exiting District Improvement in anticipation of districts' first opportunity to exit. 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
Acting Deputy Superintendent
0704#021

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Complaint Procedures (LAC 28: CXV.349)

In accordance with R.S. 49:950 et seq., this Rule establishes procedures to handle complaints by the Louisiana Department of Education on issues related to *The Elementary and Secondary Education Act* of 1965, 20 U.S.C. §6301 et seq., (ESEA). The Rule defines the applicable programs covered by the Rule, identifies the process for filing a complaint, establishes timelines for the resolution of the complaint, and requires that complaints are tracked and reported to the State Board of Elementary and Secondary Education. The Department of Education was cited by the U.S. Department of Education for the lack of a

formal complaint process on issues related to programs in ESEA. A complaint procedure is required in §9305 of the ESEA and 34 CFR Chapter II, §299.10.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration

§349. Complaint Procedures

A. These complaint procedures are established for resolving complaints which may be filed against the DOE or an agency pursuant to provisions of the *Elementary and Secondary Education Act of 1965*, 20 U.S.C. §6301 et seq., (ESEA).

B. The following definitions apply to this Section.

Agency—a local educational agency, educational service agency, consortium of those agencies, or entity.

Applicable Program—any of the following ESEA programs for which the DOE has submitted a consolidated State plan or consolidated State application under the ESEA, which may include:

a. Title I, Part A (Improving Basic Programs Operated by Local Educational Agencies);

b. Title I, Part B, Subpart 3 (Even Start Family Literacy Programs);

c. Title I, Part C (Education of Migratory Children);

d. Title I, Part D (Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk); , the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §349, Complaint Procedures;

e. Title I, Part F (Comprehensive School Reform);

f. Title II, Part A (Teaching and Principal Training and Recruitment Fund);

g. Title II, Part D (Enhancing Education through Technology);

h. Title III, Part A (English Language Acquisition, Language Enhancement, and Academic Achievement);

i. Title IV, Part A, Subpart 1 (Safe and Drug-Free Schools and Communities);

j. Title VI, Part A, Subpart 2 (Community Service Grants);

k. Title IV, Part B (21st Century Community Learning Centers);

l. Title V, Part A (Innovative Programs);

m. Title VI, Part A, Subpart 1, Sections 6111 and 6112 (Improving Academic Achievement Programs); and

n. Title VI, Part B, Subpart 2 (Rural and Low-Income Schools Program).

Covered Program—a federal program not defined as an applicable program for which the DOE is required to provide a complaint procedure and for which a complaint procedure is not otherwise provided by rule of the DOE.

C. This Subsection sets forth the specific procedures for resolving complaints that are filed pursuant to the ESEA.

1. DOE will receive complaints from individuals or organizations alleging:

a. a violation of law in the administration of an applicable program; or

b. a violation of a federal statute or regulation that applies to a covered program for which federal law permits the filing of a complaint with the DOE.

2. The complaint must be in writing and must include:

a. a statement that DOE or an agency has violated a requirement of a federal statute or regulation that applies to an applicable program or a covered program;

b. the facts on which the statement is based, including the name of the agency or agencies, and the specific requirement alleged to have been violated;

c. a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed;

d. the signature and contact information for the complainant or his or her designated representative; and

e. the complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received by the DOE.

3. Upon receipt of a complaint against an agency that meets the requirements of §349.C.2, the DOE will acknowledge receipt of the complaint in writing and provide written notice to the agency against which the violation has been alleged. DOE will provide the agency with the opportunity to resolve the complaint without a finding, with the participation and agreement of the complainant

4. If the complaint concerns a violation by the DOE and meets the applicable requirements of §349.C.2, the State Superintendent of Education will appoint an impartial person(s) to conduct an investigation and resolve the complaint. The person(s) so appointed will acknowledge receipt of the complaint in writing.

5. All complaints must be resolved within 60 days of the date the DOE receives the complaint. Within that 60-day timeline, the DOE, or the impartial investigator when a complaint is filed against the DOE, will:

a. carry out an independent on-site investigation, if the DOE or impartial investigator determines that an investigation is necessary;

b. give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

c. provide the DOE or agency with the opportunity to respond to the complaint, including, at the discretion of the agency, a proposal to resolve the complaint;

d. review all relevant information and make an independent determination as to whether the DOE or agency is violating a requirement of the ESEA; and

e. issue a written decision to the complainant that addresses each allegation in the complaint and contains:

i. findings of fact and conclusions;

ii. the reasons for the final decision; and

iii. a statement of the complainant's right to request the Secretary of the U.S. Department of Education (Secretary) to review the final decision, at the secretary's discretion.

6. Complaints regarding participation by private school children must be appealed to the secretary no later than 30 days after the decision is issued. An appeal regarding participation by private school children must be accompanied by a copy of the decision and a complete statement of reasons supporting the appeal.

7. Written decisions on complaints alleging violations by DOE will be provided to BESE.

8. Timelines for DOE's final decision may be extended if exceptional circumstances exist with respect to a particular complaint.

9. The DOE's final decision must be implemented and include, if needed:

a. technical assistance activities;

b. negotiations; and

c. corrective actions to achieve compliance.

10. Nothing herein shall preclude the availability of an informal resolution between the complainant and the DOE or agency, nor shall anything herein preclude or abrogate the availability of any administrative hearing opportunities as provided for by federal statute or regulation.

11. DOE will implement a process for tracking complaints received by DOE to facilitate timely investigation and resolution.

12. DOE will maintain a complaint log which includes the following components:

a. date of receipt of complaint;

b. name of complainant;

c. name of agency, or DOE if complaint is against DOE;

d. resolution, including technical assistance activities and corrective action plan, if needed;

e. date of resolution;

f. date of follow-up on technical assistance activities and corrective action plan, if assigned, and the results of that activity.

D. An agency will disseminate, free of charge, adequate information about the complaint procedures to parents of students, and appropriate private school offices or representatives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 20 U.S.C. §6320, 20 U.S.C. §7883(a); 20 U.S.C. §7844(a)(3)(C); 34 C.F.R. § 106.8(b), and 34 C.F.R. §§299.11-299.12.

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? Yes.

Interested persons may submit written comments until 4:30 p.m., June 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 741—Louisiana Handbook for
School Administrators—Complaint Procedures**

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

The changes to Bulletin 741 establish complaint procedures to resolve complaints which may be filed against the Louisiana Department of Education or an agency on issues related to the provisions of the U.S. Elementary and Secondary Act of 1965. The implementation cost to the Department of Education is \$7,600, \$15,000, and \$22,000 for fiscal years 07-08 through 09-10 for professional services contracts with an impartial investigator(s) to investigate complaints against the Department of Education. Approximately \$100 of the cost in 07-08 is for the dissemination of the rule. Federal funds are available for the implementation costs.

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

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

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

There are no costs and/or economic benefits to nongovernmental groups.

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

There is no effect on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
0704#019

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators—Curriculum and Instruction
(LAC 28: CXV. Chapter 23)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2375, Business Education; §2381, Health Occupations; §2383, Marketing Education; and §2387, Trade and Industrial Education. The action is being proposed to up-date Career and Technical course offerings. In updating these courses offerings our Career and Technical program of studies will be more aligned with national standards.

Title 28

EDUCATION

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

Chapter 23. Curriculum and Instruction

§2375. Business Education

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

Course Title(s)	Recommended Grade Level	Units
Exploratory Keyboarding (Middle School)	6-8	-
Accounting I	10-12	1
Accounting II	11-12	1
Administrative Support Occupations	11-12	1
Business Communications	10-12	1
Business Computer Applications	10-12	1
Business Education Elective I, II	9-12	1/2-3
Business English	12	1
Business Law	11-12	1/2
Computer Technology Literacy	9-12	1
Computer Multimedia Presentations	11-12	1/2
Cooperative Office Education (COE)	12	3
Desktop Publishing	11-12	1
Economics	11-12	1
Entrepreneurship	11-12	1
Financial Mathematics	10-12	1
Introduction to Business Computer Applications	9-12	1
Keyboarding	9-12	1/2
Keyboarding Applications	9-12	1/2
Lodging Management I	10-12	1-3
Lodging Management II	11-12	1-3
Principles of Business	9-12	1
Telecommunications	10-12	1/2
Web Design	10-12	1
Web Design II	10-12	1
Word Processing	11-12	1

B. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 33:277, 278 (February 2007), LR 33:

§2381. Health Occupations

A. Health Occupations course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
AHEC of a Summer Career Exploration	9-12	1/2
Allied Health Services I	10-12	1-2
Allied Health Services II	10-12	1-2
Cooperative Health Occupations	11-12	3
Dental Assistant I	10-12	1-2
Dental Assistant II	11-12	2-3
Emergency Medical Technician—Basic	10-12	2
First Responder	9-12	1/2-2
Health Occupations Elective I, II	9-12	1/2-3
Health Science I	11-12	1-2
Health Science II	12	1-2
Introduction to Emergency Medical Technology	10-12	2

Course Title(s)	Recommended Grade Level	Units
Introduction to Health Occupations	9-12	1
Introduction to Pharmacy Assistant	10-12	1-2
Medical Assistant I	10-12	1-2
Medical Assistant II	11-12	1-2
Medical Assistant III	12	1-2
Medical Terminology	9-12	1
Nursing Assistant I	10-12	1-3
Nursing Assistant II	11-12	1-3
Pharmacy Technician	12	1-2
Sports Medicine I	10-12	1-2
Sports Medicine II	11-12	1-2
Sport Medicine III	11-12	1

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:279 (February 2007), LR 33:

§2383. Marketing Education

A. Marketing Education course offerings shall be as follows.

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:279 (February 2007), LR 33:

§2387. Trade and Industrial Education

A. Trade and Industrial Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Air Conditioning/ Refrigeration I, II	11-12	1-3
Air Conditioning/ Refrigeration III, IV	11-12	2-3
Auto Body Repair I, II	11-12	1-3
Auto Body Repair III, IV	11-12	2-3
Automotive Technician I, II	11-12	1-3
Automotive Technician III, IV, V, VI	11-12	3
General Automotive Maintenance	11-12	1-3
G. M. Technician I, II	11-12	1-3
ABC Carpentry I, II	11-12	1-3
ABC Electrical I, II	11-12	1-3
ABC Instrumentation Control Mechanic I, II	11-12	1-3
ABC Pipe Fitter I, II	11-12	1-3
ABC Welding Technology I, II	11-12	1-3
Masonry I, II	11-12	1-3
Cabinetmaking I, II	11-12	1-3
Carpentry I, II	11-12	1-3
Carpentry III, IV	11-12	2-3

Course Title(s)	Recommended Grade Level	Units
Culinary Occupations I, II	11-12	1-3
Culinary Occupations III, IV	11-12	2-3
Custom Sewing I, II	11-12	1-3
Computer Electronics I, II	11-12	1-3
Computer Service Technology I, II	11-12	2-3
Commercial Art I, II	11-12	1-3
T & I Cooperative Education (TICE) I	11-12	1-3
T & I Cooperative Education (TICE) II	12	1-3
T & I Elective I	11-12	1-3
T & I Elective II	11-12	1-3
Cosmetology I, II	11-12	1-3
Cosmetology III, IV	11-12	2-3
Diesel Mechanics I, II	11-12	1-3
Diesel Mechanics III, IV	11-12	2-3
Drafting and Design Technology I, II	11-12	1-3
Drafting and Design Technology III, IV	11-12	2-3
Basic Electricity I, II	11-12	1-3
Electronics I, II	11-12	1-3
Industrial Electronics I, II	11-12	1-3
Electrician I, II	11-12	1-3
Electrician III, IV	11-12	2-3
Graphic Arts I, II	11-12	1-3
Graphic Arts III, IV	11-12	2-3
Horticulture I, II	11-12	1-3
Industrial Engines I, II	11-12	1-3
Laboratory Technology I, II	11-12	1-3
Industrial Machine Shop I, II	11-12	1-3
Industrial Machine Shop III, IV	11-12	2-3
Marine Operations I, II	11-12	1-3
Photography I, II	11-12	1-3
Networking Basics	10-12	2-3
Routers and Routing Basics	10-12	2-3
Switching Basics & Intermediate Routing	11-12	2-3
WAN Technologies	11-12	2-3
Plumbing I, II	11-12	1-3
Printing I, II	11-12	1-3
Sheet Metal I, II	11-12	1-3
Outdoor Power Equipment Technician I, II	11-12	1-3
Outdoor Power Equipment Technician III, IV	11-12	2-3
Television Production I, II	11-12	1-3
Upholstery I, II	11-12	1-3
Welding I, II	11-12	1-3
Welding III, IV	11-12	2-3

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 32:1415 (August 2006), 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? Yes.

Interested persons may submit written comments until 4:30 p.m., June 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 741—Louisiana Handbook for School Administrators—Curriculum and Instruction**

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

The proposed revision will change Career and Technical course offerings. It is estimated that there will be no additional costs to state governmental units. It is unknown at this time if there are any costs to local governmental units. The LEA may choose to offer new courses to students that may require updating course offerings or other counseling brochures. LEAs choosing to offer the new courses may need to purchase items such as new textbooks, instructional materials or equipment. Each LEA will make its determination.

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

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

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

The proposed changes are being requested to bring current Career and Technical course offerings in-line with industry demands. In aligning our course offerings with national standards, it will strengthen the link between secondary and postsecondary institutions. It will assist Career and Technical students in attaining vocational skills for the workplace.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Employers could have a larger, trained qualified pool from which to select employees.

Beth Scioneaux
Acting Deputy Superintendent
0704#018

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—Ancillary School Service Certificates (LAC 28:CXXXI.407, 408, 409, and 410)

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: §407,*

Educational Interpreter and §408, Educational Transliterator. This revision in the requirements for Educational Interpreter/Transliterators links the definition of interpreters/transliterators to IDEA's related services definition and separates the requirements for Educational Interpreters and Educational Transliterators. This policy also removes the requirement of first obtaining a provisional certification prior to the issuance of a qualified certificate and allows a provisionally certificated interpreter and/or transliterator the option of a three year window for renewal instead of two years. The grandfather clause for certification is eliminated along with an additional assessment option being added. A streamlined process was needed in recognizing qualifications of candidates applying for a Qualified Certificate. The proposed changes also distinguish between the different requirements for Educational Interpreters and Educational Transliterators.

Title 28

EDUCATION

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

Chapter 4. Ancillary School Service Certificates

Subchapter A. Child Nutrition Program Supervisor

§407. Educational Interpreter

A. An Educational Interpreter certificate is issued to individuals who provide sign language interpreting services by facilitating communication within an instructional environment via an enhanced visual and/or tactile mode between and among deaf/hard of hearing and hearing individuals in situations in which those individuals are unable to communicate with one another using a speech and hearing mode.

B. This certificate is issued to individuals who have at least a standard high school diploma or a General Equivalency Diploma (GED) and who meet the guidelines outlined in this document. There are two basic types of certification for Educational Interpreters: Provisional and Qualified.

C. Provisional Educational Interpreter Certificate

1. Eligibility Requirements—issued to applicants who fulfill one of the following:

- a. complete an accredited interpreter preparation program with a minimum of a certificate of completion;
- b. hold certification as a sign language interpreter/transliterator by a national or state organization or certifying body;
- c. achieve an advanced level or higher, as measured by the Sign Language Proficiency Interview (SLPI) or Sign Communication Proficiency Interview (SCPI); or
- d. pass the Pre-Hiring screening of the Educational Interpreter Performance Assessment (EIPA).

2. Renewal Guidelines

a. The Provisional Educational Interpreter certificate is valid for one year, may be renewed annually at the request of the Louisiana employing authority, and can be held for a maximum of three years.

b. This certificate is renewable upon completion of 10 contact hours of professional development annually. Course credit leading to a Qualified Certificate may be applied towards the 10 hours. These hours shall be accrued beginning with the issuance of the Provisional Educational Interpreter Certificate.

D. Qualified Educational Interpreter Certificate

1. The Qualified Educational Interpreter certificate is issued at the Elementary and/or Secondary level.

2. Eligibility requirements: Issued to applicants who fulfill all of the following:

a. pass the Educational Interpreter Assessment, Written Test;

b. achieve a level of 3.0 on one of the standardized videotape versions of the Educational Interpreter Performance Assessment: American Sign Language (ASL), Manually Coded English (MCE), or Pidgin Signed English (PSE) at the Elementary and/or Secondary level.

3. Renewal Guidelines

a. May be renewed every five years at the request of the Louisiana employing authority upon completion of six semester hours of credit or equivalent continuing professional development (90 Contact hours).

b. The six hours of credit or 90 equivalent clock hours shall be directly and substantively related to one or more of the permits or certificates held by the applicant or related to the applicant's professional competency.

c. These hours shall be accrued beginning the date of issuance of the Qualified Educational Interpreter Certificate.

E. An individual who does not meet the Qualified Certificate requirements may apply for a provisional certificate.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1808 (October 2006), amended LR 33:

§408. Educational Transliterater

A. An Educational Transliterater certificate is issued to individuals who provide cued language transliteration services by facilitating communication within an instructional environment via an enhanced visual and/or tactile mode between and among deaf/hard of hearing and hearing individuals in situations in which those individuals are unable to communicate with one another using a speech and hearing mode.

B. This certificate is issued to individuals who have at least a standard high school diploma or a General Equivalency Diploma (GED) and who meet the guidelines outlined in this document. There are two basic types of certification for Educational Transliteraters: Provisional and Qualified.

C. Provisional Educational Transliterater Certificate

1. Eligibility Requirements: Issued to applicants who fulfill one of the following:

a. hold certification as a cued speech transliterater from a national or state recognized organization or certifying body; or

b. pass the Cued American English Competency Screening.

2. Renewal Guidelines

a. The Provisional Educational Transliterater certificate is valid for one year, may be renewed annually at the request of the Louisiana employing authority, and can be held for a maximum of three years.

b. This certificate is renewable upon completion of ten contact hours of professional development annually. Course credit leading to a Qualified Educational Transliterater Certificate may be applied toward the ten hours. These hours shall be accrued beginning with the issuance of the Provisional Educational Transliterater Certificate.

D. Qualified Educational Transliterater Certificate

1. Eligibility requirements: Issued to applicants who fulfill the following:

a. pass the Cued Language Transliterater State level Performance Assessment; or attain a level of 3.5 on the Educational Interpreter Performance Assessment-Cued Speech (EIPA-CS); and

b. pass the Cued Language Transliterater State Level Written Assessment.

2. Renewal Guidelines

a. May be renewed every five years at the request of the Louisiana employing authority upon completion of six semester hours of credit or equivalent continuing professional development (90 Contact hours).

b. The six hours of credit or 90 equivalent clock hours shall be directly and substantively related to one or more of the permits or certificates held by the applicant or related to the applicant's professional competency.

c. These hours shall be accrued beginning the date of issuance of the Qualified Educational Transliterater Certificate.

E. An individual who does not meet Qualified Educational Transliterater Certificate requirements may apply for a provisional certificate.

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:

§409. School Librarian

A. School Librarian—valid for five years.

1. Eligibility requirements:

a. master's degree in library science from a regionally accredited institution; and

b. passing score on Praxis Library Media Specialist examination (#0310).

2. Renewal guidelines:

a. complete 150 continuing learning units of district-approved and verified professional development over the five year time period during which the certificate is held;

b. the Louisiana employing authority must request renewal of an Ancillary School Librarian Certificate.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1808 (October 2006), amended LR 33:

Editor's Note: §408, Junior Reserve Officers Training Corps Instructor (ROTC), has moved to §410 and is being reprinted to show the new placement.

§410. Junior Reserve Officers Training Corps Instructor (ROTC)

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

B. Provisional Certification: Valid for five years.

1. Eligibility requirements:

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

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

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:281 (February 2007), repromulgated 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., June 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 Ancillary School Service Certificates

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

This revision in the requirements for Educational Interpreter/Transliterators links the definition of interpreters/transliterators to IDEA’s related services definition and separates the requirements for Educational Interpreters and Educational Transliterators. This policy also removes the requirement of first obtaining a provisional certification prior to the issuance of a qualified certificate and allows a provisionally certificated interpreter and/or transliterator the option of a three year window for renewal instead of two years. The grandfather clause for certification is eliminated along with an additional assessment option being added. The adoption of this policy will

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

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

This policy will have no effect on revenue collections.

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
0704#020

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—Counselor K-12 (LAC 28:CXXXI.659)

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: §659, Counselor K-12 (Counselor in a School Setting)*. This revision in the requirements for add-on certification as a school counselor will allow three years of successful experience as a school counselor to substitute for the required three-semester-hour supervised practicum in a school setting. The proposed change will allow more candidates to meet the add-on certification requirements for school counselor and will increase the pool of certified school counselors in the state of Louisiana.

Title 28

EDUCATION

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

Chapter 6. Endorsements to Existing Certificates

§659. Counselor K-12 (Counselor in a School Setting)

A. - A.3.g. ...

h. Supervised Practicum in a School Setting, or three years of successful experience as a school counselor.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1819 (October 2006), amended LR 33:

Family Impact Statement

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

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

Interested persons may submit written comments until 4:30 p.m., June 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—Counselor K-12**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This revision in the requirements for add-on certification as a school counselor will allow three years of successful experience as a school counselor to substitute for the required three-semester-hour supervised practicum in a school setting. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This policy will have no effect on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
0704#015

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—Foreign Language Special Certificate PK-8 (LAC 28:CXXXI.311)

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*: §311, Foreign Language Special Certificate PK-8. This revision in policy will allow the Foreign Language Special Certificate PK-8 to be valid for six years due to changes in the visa requirements. Changes in visa requirements adversely affect Foreign Associate Teachers who wish to continue to teach in Louisiana past their initial commitment. Federal visa requirements require applicants to be certified and employed for the period covered by the visa application. Applications must be submitted a year in advance. Current policy for the Foreign Language Special Certificate limits the length of visa validity for continuing Foreign Associate Teachers, to the detriment of the Foreign Language Model Program.

Title 28

EDUCATION

**Part CXXXI. Bulletin 746—Louisiana Standards for
State Certification of School Personnel
Chapter 3. Teaching Authorizations and
Certifications**

Subchapter A. Standard Teaching Authorizations

§311. Foreign Language Special Certificate PK-8

A. Valid for six years. Teachers currently holding a three-year Foreign Language Special PK-8 certificate are eligible for the six-year certificate upon request.

B. - D. 4. ...

E. A teacher may hold a Foreign Language Special certificate for no more than six years. After six years on such a certificate, the teacher may apply for a Louisiana Level 1 professional teaching certificate. To receive a Level 1 teaching certificate, the teacher must meet all certification requirements, including Praxis examinations for the area(s) and level(s) of certification.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1800 (October 2006), amended LR 33:

Family Impact Statement

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

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

Interested persons may submit written comments until 4:30 p.m., June 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
Foreign Language Special Certificate PK-8**

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

This revision in policy will allow the Foreign Language Special Certificate PK-8 to be valid for six years due to changes in the visa requirements. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

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

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

This policy will have no effect on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
0704#017

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—School Library Service
(LAC 28:CXXXI.673)

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: §673. School Library Service*. This revision in the requirements for add-on certification as a school librarian will allow three years of successful experience as a school librarian to substitute for the required three-semester-hour school librarian practicum. The proposed change will allow more candidates to meet the add-on certification requirements for school librarian and will increase the pool of certified school librarians in the state of Louisiana.

**Title 28
EDUCATION**

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

**Chapter 6. Endorsements to Existing Certificates
Subchapter C. All Other Teaching Endorsement Areas**

§673. School Library Service

A. - A.2.b. ...

c. elementary and/or secondary school library practice, three semester hours; or three years of successful experience as a school librarian.

NOTE: Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1822 (October 2006), amended LR 33:

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., June 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
School Library Service**

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

This revision in the requirements for add-on certification as a school librarian will allow three years of successful experience as a school librarian to substitute for the required

- three-semester-hour school librarian practicum. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.
 - III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
 - IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
0704#016

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

National Source Tracking System
(LAC 33:XV.102, 361, and 399)(RP044ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection regulations, LAC 33:XV.102, 361, and 399 (Log #RP044ft).

This proposed rule is identical to federal regulations found in 10 CFR Parts 20 and 32, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule will update the state radiation regulations to coincide with changes in the federal regulations as required by the Agreement State program. Amendments to 10 CFR Parts 20 and 32 implement the National Source Tracking System (NSTS). As an Agreement State, Louisiana has licensees that are authorized to manufacture sources subject to tracking in the NSTS. Louisiana needs to implement the appropriate actions in the time frame mandated by the Nuclear Regulatory Commission for the tracking of sources. The basis and rationale for this rule are to mirror the federal regulations and maintain an adequate Agreement State program.

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

Title 33 ENVIRONMENTAL QUALITY Part XV. Radiation Protection

Chapter 1. General Provisions

§102. Definitions and Abbreviations

As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain chapter may be found in that chapter.

* * *

Nationally Tracked Source—a sealed source containing a quantity equal to or greater than the Category 1 or Category 2 levels of any radioactive material listed in LAC 33:XV.399.Appendix G. In this context a sealed source is defined as radioactive material that is sealed in a capsule or closely bonded, in a solid form, and that is not exempt from regulatory control. It does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet. Category 1 *nationally tracked sources* are those containing radioactive material at a quantity equal to or greater than the Category 1 threshold. Category 2 *nationally tracked sources* are those containing radioactive material at a quantity equal to or greater than the Category 2 threshold but less than the Category 1 threshold.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 19:1421 (November 1993), LR 20:650 (June 1994), LR 22:967 (October 1996), LR 24:2089 (November 1998), repromulgated LR 24:2242 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2563 (November 2000), LR 26:2767 (December 2000), LR 30:1171, 1188 (June 2004), amended by the Office of Environmental Assessment, LR 31:44 (January 2005), LR 31:1064 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:811 (May 2006), LR 32:1853 (October 2006), LR 33:

Chapter 3. Licensing of Radioactive Material

Subchapter D. Specific Licenses

§361. Registration of Product Information

A. - F.2. ...

G. Serialization of Nationally Tracked Sources. Each licensee who manufactures a nationally tracked source after February 6, 2007, shall assign a unique serial number to each nationally tracked source. Serial numbers must be composed only of alpha-numeric characters.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:45 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005), LR 33:

Subchapter Z. Appendices

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

Schedule A. - Appendix F, C.5. ...

Appendix G

Nationally Tracked Source Thresholds

The terabecquerel (TBq) values given in this table are the regulatory standard. The curie (Ci) values specified are obtained by converting the TBq value. The Ci values are provided for practical usefulness only and are rounded after conversion.

Nationally Tracked Source Thresholds				
Radioactive Material	Category 1		Category 2	
	TBq	Ci	TBq	Ci
Actinium-227	20	540	0.2	5.4
Americium-241	60	1,600	0.6	16
Americium-241/Be	60	1,600	0.6	16
Californium-252	20	540	0.2	5.4
Cobalt-60	30	810	0.3	8.1
Curium-244	50	1,400	0.5	14
Cesium-137	100	2,700	1	27
Gadolinium-153	1,000	27,000	10	270
Iridium-192	80	2,200	0.8	22
Plutonium-238	60	1,600	0.6	16
Plutonium-239/Be	60	1,600	0.6	16
Polonium-210	60	1,600	0.6	16
Promethium-147	40,000	1,100,000	400	11,000
Radium-226	40	1,100	0.4	11
Selenium-75	200	5,400	2	54
Strontium-90	1,000	27,000	10	270
Thorium-228	20	540	0.2	5.4
Thorium-229	20	540	0.2	5.4
Thulium-170	20,000	540,000	200	5,400
Ytterbium-169	300	8,100	3	81

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

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

A public hearing will be held on May 30, 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 RP044ft. Such comments must be received no later than May 30, 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. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-

3168. Check or money order is required in advance for each copy of RP044ft. 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

0704#028

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Permit Application Review Timeline (LAC 33:I.1501-1505)(OS075)

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.1501, 1503, and 1505 (Log #OS075).

This rule reduces the time frame for environmental permit application administrative completeness reviews from 110 days to 60 days. This rule also reduces the time for making a final decision on permit applications from 410 days to 300 days. Definitions have been added to provide the applicant with more detail regarding the application review process, and provisions have been added to correct incompleteness in permit applications and for suspension of applications pending such supplemental information. This rule implements Act 117 of the 2006 Regular Session of the Louisiana Legislature, which revised these time frames. The basis and rationale for this rule are to incorporate into the regulations the statutory revisions enacted by Act 117.

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 15. Permit Application Review

§1501. Applicability

A. This Chapter applies to permit applications for new facilities and to applications for substantial permit modifications submitted to the department after the rule's effective date (date of publication in the *Louisiana Register*).

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:487 (April 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§1503. Definitions

A. For all purposes of this regulation, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

Administratively Complete—in reference to an application for a permit, that the application contains all of the information necessary for the administrative processing of the application. Designating an application administratively complete for purposes of permit processing does not preclude the administrative authority from requesting or accepting any additional information. Required application information submitted under separate cover or separately from the application shall cause the administrative completeness determination to be delayed until such information is received, processed, and verified along with the other application information.

Complete—repealed.

Extraordinary Public Response—that situation that exists where the quality and/or quantity of comments that are relevant and material to the permit are such as to necessitate additional time for department review.

Final Decision—action taken by the administrative authority to issue, deny, modify, revoke and reissue, or terminate a permit.

New Facility—a pollution source (including all emission points and units of the source located within a contiguous area and under common control) or any public or private property where an activity required to be permitted by the department has not yet commenced.

Processing Day—except as otherwise provided herein, a day during which an application is available to the department for review and decision in the permit decision development process. Non-processing days include, but are not limited to, any day the department:

- a. awaits from the applicant requested information that revises or supplements administrative or technical information or deficiencies in the application; or
- b. reviews the following information from the applicant, not to exceed 60 days per submittal:
 - i. department-requested information; or
 - ii. application revisions or additional information unsolicited by the department.

Substantial Permit Modification—a change that substantially alters the permitted facility or its operation as follows:

- a. for a hazardous waste permit, any Class 3 modification listed in LAC 33:V.322 or otherwise described in LAC 33:V.321.C.4;
- b. for a solid waste permit, any modification listed in LAC 33:VII.517.A.2.a, or otherwise determined by the administrative authority to warrant public notice;
- c. for a Louisiana Pollutant Discharge Elimination System (LPDES) permit, any modification not processed as a minor modification under LAC 33:IX.2905; and
- d. for an air quality permit, any modification that results in a significant increase in the amount of any

regulated pollutant or results in the significant emission of any air pollutant not previously emitted.

Suspended Application—a permit application that is not eligible to be processed for a permit decision because administrative or technical information requested by the department has not been submitted by the applicant within the time period specified by the department. An application deemed suspended, if not denied, may be reinstated if the requested information is submitted to, and found to be adequate by, the department within six months from date of application suspension. In addition, the department may require the applicant to submit an updated application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:487 (April 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§1505. Review of Permit Applications for New Facilities and Substantial Permit Modifications

A. Administrative Completeness Review

1. After receipt of a permit application for a new facility or an application for a substantial permit modification, the department shall perform an administrative completeness review and, if applicable, submit written notification to the applicant that lists the application's specific administrative deficiencies or additional information needed for application processing. Permit application forms and checklists of required information in the permit application review process shall be provided to the applicant upon request.

2. The applicant shall respond to the notice of deficiency or the request for additional information within the amount of time specified in the notice or request. This response shall contain all of the information required by the department to proceed with processing the application, unless otherwise provided for in Subsection E of this Section.

3. Within 60 processing days from the date a permit application is submitted, the department shall:

- a. issue a letter of administrative completeness; or
- b. notify the applicant that the application has been suspended because the required administrative information has not been received within the amount of time specified by the department.

4. The applicant's failure to address an application deemed suspended may result in a permit denial, based on an incomplete application.

5. Within 30 days after receipt of a letter of administrative completeness, the applicant shall publish a notice, provided by the department, of the administrative completeness determination in a major local newspaper of general circulation and submit proof of publication to the Office of Environmental Services, Air Permits Division, Water Permits Division, or Waste Permits Division.

6. The requirement for publication of a notice of administrative completeness may be waived for applications for air quality permits for sources not defined as major in LAC 33:III.502 or 5103.

7. The requirement for publication of a notice of administrative completeness may be waived for applications

for water quality permits for sources defined as minor by the administrative authority.

B. Technical Review

1. If at any time during the application review process the application is found to contain technical deficiencies, or if additional information is needed to correct or clarify the application, the department shall provide a written notice or request to the applicant and require a response within a specified time.

2. The applicant shall respond to the notice of technical deficiency or request for additional information within the time specified in the notice or request. This response shall be deemed adequate only if it contains all of the information specified in the notice of technical deficiency or request for additional information as required by the department to complete the review of the application.

3. If the applicant does not supply the required information within the time period specified in the notice of technical deficiency or request for additional information, the department may notify the applicant that the application has been suspended because the required information has not been received within the amount of time specified by the department.

4. The applicant's failure to address an application deemed suspended may result in a permit denial, based on an incomplete application.

5. Applications undergoing technical review shall not be subject to rule changes that occur during the technical review unless such changes are made in accordance with R.S. 49:953(B)(1) or are required by federal law or regulation to be incorporated prior to permit issuance. However, such a rule change made prior to the issuance of the permit may constitute grounds for a modification of the final permit.

C. Final Decision

1. The secretary or his designee shall issue a final decision within 300 processing days from the submission date of the application.

2. The 300-processing-day deadline shall be extended where additional time is required:

a. for the applicant to revise or supplement the application to address technical information or deficiencies in the application;

b. for adjudicatory or judicial proceedings under R.S. 30:2024;

c. for required review by the United States Environmental Protection Agency; or

d. for consideration of comments received at a public hearing in the case of an extraordinary public response, however in no case shall the extension for consideration of comments exceed 45 days.

D. Exceptions. Notwithstanding any other provisions of this Chapter to the contrary, the following requirements shall pertain to all applications for permits relating to oil and gas wells and pipelines.

1. Within 14 workdays after submittal of a permit application, the department shall perform an administrative completeness review and make a determination as follows.

a. If the application is deemed administratively complete, the department shall issue notification of the administrative completeness determination to the applicant.

b. If the application is not deemed administratively complete, the department shall notify the applicant in writing and provide a list of the application's specific administrative deficiencies. This notice shall specify the date by which the administrative information is to be submitted.

2. If, during the technical review, additional information is needed, the department shall notify the applicant in writing and shall specify the date by which the information is to be submitted.

3. If the applicant does not submit the required administrative or technical information within the specified time period as requested by the department, the department may notify the applicant that the application has been suspended because the required information has not been received within the amount of time specified by the department.

4. The applicant's failure to address an application deemed suspended may result in a permit denial, based on an incomplete application.

5. Within 60 processing days after a permit application has been submitted to the department, the secretary or his designee shall issue a final decision to grant or to deny the permit.

6. In the event of a permit denial, the secretary or his designee shall provide written reasons for the decision to all parties.

7. If the secretary or his designee does not grant or deny the permit within the time period provided for herein, the applicant may file a rule as provided for in R.S. 49:962.1.

E. Extensions. Any deadline established by this Section may be extended. A request for an extension of any deadline shall be submitted in writing by the permit applicant or by the secretary or his designee. The request shall specify the reasons and any special conditions that support a deadline extension. Written responses to all extension requests shall be submitted to the requestor within 10 days of receipt of the request.

F. Withdrawal of Permit Application

1. An applicant may voluntarily withdraw an application during the review process, without prejudice, provided notice of withdrawal is submitted to the Office of Environmental Services, Air Permits Division, Water Permits Division, or Waste Permits Division, in writing with the appropriate signatory authority, and:

a. the applicant has voluntarily submitted an application for a new facility and such an application is not required other than to gain permission to operate; or

b. the applicant has voluntarily submitted an application to modify an existing permit and such a permit modification would not be required other than to operate in a different manner.

2. Following withdrawal, any subsequent submission will be considered a new application.

3. Following withdrawal, the requirements of this Chapter will be reinitiated upon the submittal of a new application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:487 (April 1993), repromulgated LR 19:742 (June 1993), amended by

the Office of Environmental Assessment, Environmental Planning Division, LR 26:2441 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2433 (October 2005), LR 33:

A public hearing will be held on May 30, 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 OS075. Such comments must be received no later than June 6, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. 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 OS075. 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: Permit Application Review Timeline

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

It is estimated that there will be no implementation costs or savings to state or local governmental units associated with this rule.

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

It is estimated that there will be no effects on revenue collections of state or local governmental units associated with this rule.

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

It is anticipated that this rule will result in proposed permitted activities' operations beginning sooner. Any new jobs associated with these permitted activities would therefore become available sooner.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that this rule will have no effect on competition and employment among businesses within the State of Louisiana since the rule applies equally among all facilities to which it is directed.

It is anticipated that this rule will reduce the time needed to obtain a permit decision for a new facility, or for significant modifications to an existing facility, which could allow the State of Louisiana to better compete with other states for the operations of new or expanding businesses, resulting in more jobs for Louisiana citizens.

Herman Robinson, CPM
Executive Counsel
0704#027

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Board of Tax Appeals

Procedure and Practice

Under the authority of R.S. 47:1413 and in accordance with R.S. 49:967(A), the Louisiana Board of Tax Appeals proposes to amend the Rules of Procedure and Practice as follows.

"Collector of Revenue" and "Collector" have been replaced with "Department of Revenue" and "Department" thought out the rules.

Board of Tax Appeals Procedure and Practice Part I

Rule 2—Business Hours:

The Board's office is located at 1111 South Foster Drive, Suite A, Baton Rouge, LA. The Board's office will be open each business day, except for legal State and Federal holidays. All pleadings will be accepted and stamped filed between the office hours of 8:30 a.m. and 4:30 p.m.

Rules Relating to Tax Matters

Rule 3—Pleadings in General:

An original and four conformed copies of all pleadings shall be filed.

All pleadings are to be signed by the individual who files them, with the capacity in which he is acting and his mailing address stated below the signature.

The signing of the pleading will be construed to be the individual's statement that he is duly authorized to represent the taxpayer, that the allegations of the petition are true and correct to the best of his information and belief and that the capacity in which he acts is properly stated.

Supplemental and Amending pleadings, timely filed, shall be filed accompanied by a Certificate of Service to all parties, along with four conformed copies.

The following heading is to be used on all pleadings:

* * *

Rule 6—Motions and Exception

Motions and exceptions are to be made in writing.

(a) Motions, Rules and Exceptions are to be made in writing with an Order attached for setting said filing, with a copy, via Certificate, to be served upon all parties.

(b) At the Board's discretion, Motions, Rules and Exceptions may be heard by the Board, or referred/deferred to the merits and hearing of the appeal.

Rule 8—Hearings:

(a) The Board will have hearings on the third Tuesday and Wednesday of each month, and the Board will set a Docket listing the cases that will be heard each month by the

Board. At the Board's discretion, the Board's hearing dates and docketed cases to be heard are subject to change.

Hearings will be held at the Board's offices in Baton Rouge and at such other places as may be designated by the Board.

(b) The Board, through its Chairman, will issue a Scheduling Order for each appeal case filed and set for hearing before the Board, setting out specific dates and deadlines for pre-trial motions, setting/status conferences, if necessary, and other deadlines for each case. These dates and deadlines contained in the Board's Scheduling Order are mandatory and failure to adhere to same, without written permission by the Board, may result in the dismissal of that party's appeal.

(c) Continuances must be requested in writing, whether opposed or unopposed, and accompanied by an Order for setting the hearing on the request for a continuance. The Board, at its discretion, may grant or deny a party's request for a continuance, with or without a formal hearing.

(d) Consolidation of appeals/cases for hearing are favored and must be in writing and the Board, at its discretion, with or without a formal hearing, may grant a party's Motion for Consolidation of one or more pending cases.

The rules of evidence and trial procedure, although not binding upon the Board, are generally followed by the District Courts of the State will be followed in hearings before the Board.

Rule 10—Subpoenas:

Written requests for subpoenas are to be accompanied by a fee of \$25 payable to the Board of Tax Appeals.

The Board will not recognize subpoenas not issued by the Board, or issued by the Party or another State Agency.

Rule 11—Memorandum and Briefs:

Deadlines and dates each party's memoranda and brief is due will be provided and contained in the Board's Scheduling Order when each case is set for hearing.

At the Board's discretion, post hearing memoranda may be allowed following the hearing of the appeal case by the Board. Memorandum and briefs filed without the permission or request of the Board will not be allowed or considered by the Board.

All memorandum and briefs must be accompanied by a written certificate of service by the party showing that a copy has been forwarded, postage prepaid, to all opposing parties and a copy to each of the Board Members.

Rule 16—Filing Fees, Fees and Mileage of Witnesses:

The Board's filing fee schedule is as follows:

- Initial filings (under \$5,000 in controversy)—\$ no filing fee
- Initial filings (over \$5,000 in controversy)—\$250
- Additional and supplemental filings

(Not required by Board & Scheduling Order)—\$ no filing fee

Any witnesses, whether lay or expert witnesses, summoned or whose deposition is taken under R.S. 47:1409, shall receive the same fees and mileage as witnesses in courts of the State of Louisiana. Such fees and mileage and the expenses of taking such deposition shall be paid as follows:

(a) In the case of witnesses for the Department of Revenue, such payments shall be made and the responsibility of the Department of Revenue.

(b) In the case of any other witnesses, such payments shall be made, subject to rules prescribed by the board, by the party at whose instance the witness appears or deposition is taken.

No witness, other than one for the *Department of Revenue*, shall be required to testify in any proceeding before this Board until he shall have been tendered the fees and mileage to which he is entitled.

**Part II
Waiver of Penalties**

Rule 17

At the discretion of the Board, and as allowed by law, penalties may be waived as to a taxpayer or claim for appeal.

Penalties for the failure to file a tax return may be waived by the *Department of Revenue*, but the approval of the Board is required where the penalty exceed \$250 (R.S. 47:1603)

Forms for requesting the waivers may be obtained from the Department of Revenue

**Part IV
Claims against the State**

Rule 19

Any person who has a claim against the State of Louisiana for money erroneously paid into the State Treasury, or for any other such claim, shall initiate same by petition in the following form:

* * *

Board May Conduct Investigation But Need Not Conduct a Hearing:

* * *

OMIT "Payment of Approved Claims ... proceedings may be instituted by simple affidavit."

* * *

Effective Date

These rules shall become effective *September 1, 2007*, superseding prior editions.

The amended Rules of Procedure and Practice will take effect on September 1, 2007. Interested persons can submit written comments until May 31, 2007 to Chairman Gary Ortego at the Board of Tax Appeals, 1111 South Foster Drive Suite A, Baton Rouge, LA 70806 or present comments at the monthly hearings on May 15, 2007.

Gary J. Ortego
Chairman

0704#037

NOTICE OF INTENT

**Office of the Governor
Commission on Law Enforcement and
Administration of Criminal Justice**

Peace Officer Training (LAC 22:III.4771)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et seq., which is the Administrative Procedure Act, the Peace Officer Standards and Training Council hereby gives notice of its intent to promulgate rules and regulations relative to the training of peace officers.

**Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

**Part III. Commission on Law Enforcement and
Administration of Criminal Justice
Subpart 4. Peace Officers**

Chapter 47. Standards and Training

§4771. Emergencies and/or Natural Disasters

A. All previously certified and registered peace officers who have retired from full time law enforcement service for five years or more will be granted the authority to serve as "provisional peace officers" for the agency from which they retired during a state of emergency within a declared emergency zone. The provisional peace officer applicant must successfully qualify with his/her duty weapon as soon as possible with a P.O.S.T. certified firearms instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 33:

Interested persons may submit written comments on this proposed Rule no later than May 10, 2007 at 5 p.m. to Bob Wertz, Peace Officer Standards and Training Council, Louisiana Commission on Law Enforcement, 1885 Wooddale Boulevard, Room 1230, Baton Rouge, LA 70806.

Michael A. Ranatza
Executive Director

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

RULE TITLE: Peace Officer Training

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

To the extent that state and local governments rehire retired peace officers during a state of emergency, there will be increased expenditures for state or local governmental units. The level of expenditures would be dependent on the nature of the emergency and its duration.

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

Implementation of the proposed rule will not affect revenue collections of state or local governmental units.

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

There may be economic benefits to the retired peace officers hired during the emergency.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be a positive effect on employment in the public sector as a result of this proposed amendment for the persons hired on a temporary basis during the emergency.

Michael A. Ranatza
Executive Director
0704#010

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Board of Cosmetology**

Cosmetology (LAC 46:XXXI.309, 321, and 701)

The Louisiana State Board of Cosmetology, under authority of the Louisiana Cosmetology Act, R.S. 37:561-607, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby intends to amend certain Rules regarding examination of applicants, responsibilities of students and safety and sanitation requirements.

The revisions are necessary to make requirements regarding all applicants for examination uniformed, to provide establish the procedure for use of hours earned in a cosmetology school without completion of the program and to establish safety and sanitation requirements.

There should be no adverse fiscal impact on the state as a result of these revisions. The Louisiana State Board of Cosmetology operates solely on self-generated funds. Further, the proposed Rule has no known impact on family formation, stability or autonomy as described in R.S. 49:972.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXI. Cosmetologists

Chapter 3. Schools and Students

§309. Examination of Applicants

A. - E. ...

F. All applicants must wear solid black or white colored garments as outlined in §321.C while testing.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(4) and R.S. 37:586.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003), amended LR 32:834 (May 2006), LR 33:

§321. Responsibilities of Students

A. - C. ...

D. Hours. Student hours shall become invalid six years after the date the hours were earned.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:329 (March 2003), amended LR 29:2781 (December 2003), LR 32:835 (May 2006), LR 33:

Chapter 7. Safety and Sanitation Requirements

§701. Sanitation Requirements for Cosmetology Salons and Cosmetology Schools

A. - Q. ...

R. Prohibited equipment and substances. No beauty shop, salon or cosmetology school shall permit the use of and no individual licensed by the board shall use the following in the performance of cosmetology:

1. credo blades or any blade designed for the removal of multiple layers of skin;

2. formaldehyde for sanitization of equipment; or
3. nail enhancement products containing methyl methacrylate (MMA) monomer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:329 (March 2003), amended LR 29:2781 (December 2003), LR 32:835 (May 2006), LR 33:

Interested persons may submit comments on this proposed Rule to Jackie Burdette, 11622 Sunbelt Court, Baton Rouge, LA 70809, by close of business May 20, 2007.

Jackie Burdette
Executive Director

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

- 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 07-08.
- 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:XXI.309, 321 and 701 to clarify that all applicants (approximately 15 per month) must follow uniform dress code while testing, that student hours earned become invalid after the passage of six years and to prohibit the use of products which licensees are not authorized to use, and to maintain safety and sanitation requirements.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition.

Jackie Burkett
Executive Director
0704#025

Robert E. Hosse
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Office of the Governor
Office of Financial Institutions**

Louisiana International Banking
(LAC 10:III.1101 and 1103)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and as authorized by R.S. 6:551.7 and 6:551.24, the Commissioner of the Office of Financial Institutions gives notice of intent to promulgate a Rule to provide for the administration and regulatory oversight of the Louisiana International Banking Statutes (R.S. 6:551.1 et seq.). The proposed Rule establishes fees and assessments to cover anticipated regulatory costs.

There is no family impact associated with this proposed Rule, as provided for in R.S. 49:972.

**Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES AND UCC
Part III. Banking**

**Chapter 11. Louisiana International Banking
§1101. General Provisions**

A. The Depository Institutions' Section of the Louisiana Office of Financial Institutions ("OFI") is funded entirely through assessments and fees levied on state-chartered depository institutions for services rendered. All fees detailed in this rule are nonrefundable and must be paid at the time the application is filed with this office. An applicant may request that a reduced fee be charged for the simultaneous filing of multiple applications. This privilege will not be afforded to applications that are not expected to be consummated within 12 months of the filing date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:551.7 and 6:551.24.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:

§1103. Fees and Assessments

A. Pursuant to the authority granted under R.S. 6:551.7 and 6:551.24, the following fee and assessment structure is hereby established to cover necessary costs associated with the administration of the International Banking Statutes, R.S. 6:551.1 et seq.

Description	Fee
Application for a foreign bank, bank holding company, or financial holding company, to establish and operate a subsidiary bank in Louisiana.	\$10,000
Application for a foreign bank to establish and operate a branch, an international banking facility, a representative office, or an agency in Louisiana.	\$2,000
Application for a U.S. bank or foreign bank to organize or acquire a subsidiary to engage in international banking activities specifically authorized in the Edge Act or to operate as an agreement corporation.	\$2,000
Application for a foreign bank to establish and operate an administrative office in Louisiana.	\$1,000
Examination fee for each foreign bank, branch, agency, representative office, international banking facility, administrative office, or Edge Act subsidiary operating in Louisiana. Fee per examiner.	\$50 per hour
Examination fee for each branch, agency, representative office, international banking facility, administrative office, or Edge Act subsidiary of an out-of-state foreign bank. This fee shall be billed to the primary state regulator of the out-of-state foreign bank being examined, and due upon receipt of the OFI invoice.	The greater of \$50 per hour per examiner or the actual expenses incurred by this office to conduct or assist in conducting such examinations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:551.7 and 6:551.24.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 35:

All interested persons are invited to submit written comments on this proposed Rule no later than 4:30 p.m., May 10, 2007, to John D. Fields, Deputy Chief Examiner, Office of Financial Institutions, Post Office Box 94095,

Baton Rouge, LA 70804-9095, or by hand-delivery to 8660 United Plaza Boulevard, Second Floor, Baton Rouge, LA 70809.

John Ducrest, CPA
Commissioner

Louisiana in order to provide services for its international customers.

John Ducrest, CPA
Commissioner
0704#067

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Louisiana International Banking**

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Pharmacy**

Prescription Monitoring Program
(LAC 46:LIII.Chapters 29 and 33)

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

There are no net implementation costs to state or local governmental units associated with this proposal. Current administrative costs will be reallocated to include activities associated with international banking in Louisiana as provided under LSA-R.S. 6:551.1 et seq.). Administrative costs associated with performing regulatory functions shall be funded by assessments and fees collected from the international bank participants. The reason there is no net change in expenditures to OFI is that any reductions in expenditures for other regulatory areas as a result of the reallocation of staff to international banking activities will result in a reduction of assessments for other depository institutions. OFI operates on an actual cost basis. In accordance with LAC 10:303(H), any amounts collected in excess of actual expenditures associated with other depository institutions, the OFI shall credit or refund the collected fees on a pro-rata basis to the affected institutions.

The Louisiana international banking statutes provides the Commissioner of Financial Institutions the authority to promulgate rules necessary to establish a reasonable fee schedule to fund the cost of administration and regulatory oversight. The proposed rule establishes a fee schedule for applications and examinations associated with permissible international banking activities in Louisiana.

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

There will be no net impact on the revenue collections of state or local governmental units. The potential fee income will be utilized to cover anticipated administrative and examination costs to supervise and regulate international banking activities in Louisiana. We do not anticipate a significant volume of international banking activity; therefore we do not anticipate a significant increase in administrative costs to supervise this area. LSA-R.S. 6:551.11 also provides for an annual certificate of authority renewal fee of \$1,000 for approved international banking facilities that should aid in covering anticipated administrative expenses.

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

Entities seeking to conduct international banking activities in Louisiana will be required to pay fees established by this proposed rule for applications and examinations. Individuals and businesses gaining access to financial institutions domiciled in another country could be expected to generate additional economic activity within Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not expected to have any significant impact on competition; however, any increase in international banking activity in Louisiana could result in a need for the hiring of additional employees that would be located in

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to promulgate an entirely new chapter of regulations relative to the Prescription Monitoring Program. This program was authorized by Act 676 of the 2006 Louisiana Legislature. Further, the board gives notice of its intent to re-designate the current Chapter 29, Severability as Chapter 33, Severability, with no changes to the contents of that Chapter.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 29. Prescription Monitoring Program

Subchapter A. General Operations

§2901. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them unless the context clearly indicates otherwise.

Administer or Administration—the direct application of a drug to the body of a patient by injection, inhalation, ingestion, or any other means.

Advisory Council—the entity established in R.S. 40:1005.

Board—the Louisiana Board of Pharmacy.

Controlled Substance—any substance or drug defined, enumerated, or included in federal or state statute or rules, 21 CFR 1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations or statute. *Controlled substance* shall not include distilled spirits, wine, malt beverages, or tobacco.

Dispense or Dispensing—the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient.

Dispenser—a person authorized by this state to dispense or distribute to the ultimate user any controlled substance or drug monitored by the program, but shall not include any of the following:

a. a pharmacy permitted by the board as a hospital pharmacy that dispenses or distributes any controlled substance or drug monitored by the program for the purposes of inpatient health care;

b. a practitioner who dispenses or distributes no more than a single 48 hour supply of such controlled substance or drug to a patient prior to, or subsequent to, performing an actual procedure on that patient;

c. practitioner or other authorized person who administers such controlled substance or drug upon the lawful order of a practitioner;

d. a wholesale distributor of such controlled substance or drug that is credentialed by the Louisiana State Board of Wholesale Drug Distributors.

Distribute or Distribution—the delivery of a drug or device other than by administering or dispensing.

Drug—any of the following:

a. any substance recognized as a drug in the official compendium, or supplement thereto, designated by the board for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

b. any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals;

c. any substance other than food intended to affect the structure or any function of the body of humans or other animals.

Drugs of Concern—drugs other than controlled substances as defined by rule which demonstrate a potential for abuse.

Patient—the person or animal who is the ultimate user of a controlled substance or drug monitored by the program for whom a prescription is issued and for whom a controlled substance or drug is dispensed.

Prescriber—a licensed health care professional with prescriptive authority.

Prescription Monitoring Information—data submitted to and maintained by the prescription monitoring program.

Prescription Monitoring Program or *PMP*—the program established in R.S. 40:1004.

Procedure—any dental or medical practice or process described in the current year's version of the American Dental Association's *Current Dental Terminology* or the American Medical Association's *Code of Procedural Terminology*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

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

§2903. Authority for Program Operation

A. The board shall establish and maintain, in consultation with and upon the recommendation of the advisory council, an electronic system for the monitoring of controlled substances and drugs of concern dispensed in the state or dispensed to an address in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1004.

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

§2905. Authority to Engage Staff

A. The board shall have the authority to engage a program director and sufficient number of other personnel as may be necessary to accomplish the mission of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1179.F.(6).

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

§2907. Authority to Engage Vendors

A. The board shall have the authority to engage vendors to facilitate the collection of the prescription monitoring program data and to facilitate access to the program data by authorized users.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1012.

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

§2909. Advisory Council

A. The advisory council shall consist of the following members, each of whom may appoint a designee:

1. the President of the Louisiana State Board of Medical Examiners;

2. the President of the Louisiana State Board of Dentistry;

3. the President of the Louisiana State Board of Nursing;

4. the President of the Louisiana State Board of Optometry Examiners;

5. the President of the Louisiana State Board of Examiners of Psychologists;

6. the President of the Louisiana Academy of Physician Assistants;

7. the President of the Louisiana Board of Pharmacy;

8. the Superintendent of the Louisiana State Police;

9. the Administrator of the United States Drug Enforcement Administration;

10. the Speaker of the Louisiana House of Representatives;

11. the President of the Louisiana Senate;

12. the Chairman of the House Committee on Health and Welfare;

13. the Chairman of the Senate Committee on Health and Welfare;

14. the Secretary of the Department of Health and Hospitals;

15. the President of the Louisiana State Medical Society;

16. the President of the Louisiana Dental Association;

17. the President of the Louisiana Association of Nurse Practitioners;

18. the President of the Optometry Association of Louisiana;

19. the President of the Louisiana Pharmacists Association;

20. the President of the Louisiana Independent Pharmacies Association;

21. the President of the National Association of Chain Drug Stores;

22. the President of the Louisiana Sheriffs' Association;

23. the President of the Louisiana District Attorneys Association;

24. the President of the Pharmaceutical Research and Manufacturers of America;

25. the President of the Louisiana Academy of Medical Psychologists.

B. The members of the advisory council shall serve at the pleasure of their respective appointing authorities, 11 of whom shall constitute a quorum for the transaction of business. The members shall elect a chairman and vice chairman whose duties shall be established by the advisory

council. The board shall fix a time and place for regular meetings of the advisory council, which shall meet at least quarterly. The advisory council shall establish policies and procedures necessary to carry out its duties.

C. The board shall seek, and the advisory council shall provide, information and advice regarding the development and operation of the electronic monitoring system, including but not limited to the following:

1. which controlled substances should be monitored;
2. which drugs of concern demonstrate a potential for abuse and should be monitored;
3. design and implementation of educational courses identified in R.S. 40:1008;
4. the methodology to be used for analysis and interpretation of prescription monitoring information;
5. design and implementation of a program evaluation component;
6. identification of potential additional members to the advisory council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1005.

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

Subchapter B. Data Collection

§2911. Reporting of Prescription Monitoring Information

A. Each dispenser shall submit to the board information regarding each prescription dispensed for a controlled substance.

B. Each dispenser shall submit the required information by electronic means on a frequency set by the board, which shall be no less than every 14 days and no more than every seven days.

C. If the dispenser is unable to submit prescription information by electronic means, he may apply to the board for a waiver. The board may grant a waiver to that requirement; if so, the waiver shall state the format and frequency with which the dispenser shall submit the required information. The waiver shall expire one year after the date of issue, unless terminated sooner by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

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

§2913. Required Data Elements

A. The information submitted for each prescription shall include data relative to the identification of the following elements of the transaction. To the extent possible, the data shall be transmitted in the format established by the American Society for Automation in Pharmacy (ASAP) Telecommunications Format for Controlled Substances in May 1995.

1. Prescriber Information:
 - a. name of prescriber;
 - b. address of prescriber;
 - c. telephone number of prescriber;
 - d. United States Drug Enforcement Administration (DEA) registration number.
2. Patient information:
 - a. name of patient;
 - b. address of patient;
 - c. date of birth of patient;
 - d. Social Security number of patient.

3. Prescription information:
 - a. identification number of prescription;
 - b. date of issuance;
 - c. date of fulfillment;
 - d. number of refills authorized on original prescription;
 - e. method of payment for prescription (cash, insurance, or government subsidy).
4. Drug information:
 - a. National Drug Code (NDC) number;
 - b. name of drug;
 - c. dosage form of drug;
 - d. strength of drug;
 - e. quantity dispensed.
5. Dispenser information:
 - a. name of pharmacy or practitioner;
 - b. address of dispenser;
 - c. telephone number of dispenser;
 - d. DEA registration number;
 - e. national practitioner identification number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

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

§2915. Failure to Report Prescription Information

A. A dispenser who fails to submit prescription monitoring information to the board as required shall be referred to the appropriate professional licensing, certification, or regulatory agency for administrative sanctions as deemed appropriate by that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

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

Subchapter C. Access to Prescription Monitoring Information

§2917. Authorized Direct Access Users of Prescription Monitoring Information

A. The following persons may access prescription monitoring information in the same or similar manner, and for the same or similar purposes, as those persons are authorized to access similar protected health information under federal and state law and regulation:

1. persons authorized to prescribe or dispense controlled substances or drugs of concern, for the purpose of providing medical or pharmaceutical care for their patients;
2. designated representatives from the professional licensing, certification, or regulatory agencies charged with administrative oversight of those professionals engaged in the prescribing or dispensing of controlled substances or other drugs of concern;
3. designated representatives from the Louisiana Medicaid program regarding Medicaid program recipients;
4. designated representatives of the board or any vendor or contractor establishing or maintaining the prescription monitoring program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

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

§2919. Registration Procedures for Authorized Direct Access Users

A. Authorized users of prescription monitoring information shall comply with the following requirements to register with the board, in order to receive the appropriate credentials to access prescription monitoring information.

1. The applicant shall successfully complete the program's orientation course, and attach evidence of same to his application to the program.

2. The applicant shall file an application with the program, using the form supplied by the program for that purpose.

3. The board shall verify the practitioner applicant is in possession of a valid license to prescribe or dispense controlled substances, or in the case of an agency applicant, the board shall verify agency representation.

4. Upon verification of all requirements, the board shall issue the appropriate credential necessary to access prescription monitoring information.

5. Upon receipt of information that an authorized user no longer possesses authority to prescribe or dispense controlled substances, the program shall terminate the user's credentials to access prescription monitoring information. If or when the user's authority to prescribe or dispense controlled substances is reinstated, the program may reinstate the user's credentials to access prescription monitoring information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

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

§2921. Methods of Access to Prescription Monitoring Information

A. Prescribers and dispensers, once properly registered, may solicit prescription monitoring information from the program concerning their patients. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

B. Designated representatives from agencies charged with administrative oversight of prescribers and dispensers of controlled substances may solicit prescription monitoring information from the program concerning specific investigations of prescribers or dispensers. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

C. Designated representatives of the Louisiana Medicaid program, once properly registered, may solicit prescription monitoring information from the program concerning specific recipients. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

D. Designated representatives of the board, or any vendor or contractor establishing or maintaining the program, once properly registered, may solicit prescription monitoring information from the program for the purpose of establishing or maintaining the program's database.

E. Upon receipt of one of the following methods of application by local, state, or federal law enforcement or prosecutorial officials, the program may provide prescription monitoring information:

1. a court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;

2. a grand jury subpoena; or

3. an administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided by law enforcement to the board, and further, provided all of the following:

a. the information sought is relevant and material to a legitimate law enforcement inquiry;

b. the request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought;

c. de-identified information, or limited information that does not identify or could not reasonably lead to the identification of an individual patient, could not reasonably be used.

F. Individuals may solicit their own prescription monitoring information from the program. To prevent inappropriate access to such information, the requestor shall personally appear at the program office and produce positive photo identification at the time of their request. The program shall furnish a single copy of the report responding to such request at no charge to the individual.

G. Program personnel, once properly registered, may solicit prescription monitoring information from the program's database for the purpose of responding to legitimate inquiries from authorized users or other individuals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

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

§2923. Unlawful Use or Disclosure of Prescription Monitoring Information

A. If the program receives evidence of inappropriate or unlawful use or disclosure of prescription monitoring information by an authorized user, the program shall refer that user to the appropriate professional licensing, certification, or regulatory agency for administrative sanctions as deemed appropriate by that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

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

Subchapter D. Reports

§2925. Release of Prescription Monitoring Information to Other Entities

A. The program shall provide prescription monitoring information to public or private entities, whether located in or outside of the state, for public research, policy, or educational purposes, but only after removing information that identifies or could reasonably be used to identify individual patients or persons who received prescriptions from prescribers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

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

§2927. Legislative Oversight

A. The board shall report to the appropriate legislative oversight committee on a periodic basis, but in no case less than annually, the cost benefits and other information relevant to policy, research, and education involving controlled substances and other drugs of concern monitored by the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

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

§2929. Program Evaluation

A. The board shall, in consultation with and upon recommendation of the advisory council, design and implement an evaluation component to identify cost benefits of the prescription monitoring program and other information relevant to policy, research, and education involving controlled substances and drug monitored by the prescription monitoring program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

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

Chapter 33. Severability

§3301. Severability

A. In the event any rule, sentence, clause, or phrase or any of these rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof, and such remaining rules or portions thereof shall remain of full force and effect, as if such rule or portions thereof so determined, declared, or adjudged invalid or unconstitutional were not originally a part hereof. It is the intent of the Louisiana Board of Pharmacy to establish rules and regulations that are constitutional and enforceable so as to safeguard the health, safety, and welfare of the people of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2114 (October 2003), effective January 1, 2004, repromulgated LR 33:

Family Impact Statement

In compliance with Act No. 1183 of the 1999 Louisiana Legislature, the impact of this proposed Rule on the family has been considered. One of the goals of the program is to identify persons who may be in need of treatment for substance abuse or addiction. To the extent that persons not yet so identified are able to obtain referral and treatment, the board believes that this program will have a positive impact on the functioning of the family, with probable beneficial effects on family stability and family earnings. The board does not anticipate any direct effects of this proposed rule on the ability of the family to educate and supervise their children.

Interested persons may submit written comments to Malcolm J Broussard, Executive Director, Louisiana Board of Pharmacy, 5615 Corporate Blvd., 8th Floor, Baton Rouge, LA 70808-2537. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, May 30, 2007 at 9 a.m. in the board office. 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 comments is 12 noon that same day.

Malcolm J Broussard
Executive Director

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

RULE TITLE: Prescription Monitoring Program

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

It is estimated that implementation of the proposed rule will cost the agency \$713,120 (includes \$1,000 for printing costs) in FY 07, and then \$437,120 in subsequent fiscal years.

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

The Board was awarded a \$400,000 federal grant to help defray some of the implementation costs in FY 07. The enabling legislation authorizes the Board to levy and collect an annual fee of \$25 from most prescribers and all pharmacies; the estimated annual revenue from that fee is \$437,675 (\$25 x 17,507 providers).

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

The proposed rule, pursuant to Act 676 of the 2006 Regular Session of the Legislature, will require those dispensers of controlled dangerous substances and other drugs of concern to report their transactions to the program as required by federal rules to collect and maintain the information being requested by the program. Due to the capacity for electronic transmission of the data, we estimate minimal costs for the practitioners and pharmacies reporting their data to the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Since all dispensers of controlled dangerous substances and other drugs of concern will be required to report such transactions to the program, we estimate no effect on competition among such dispensers. Further, all such parties are already required to collect and maintain the information requested by the program. Thus, we estimate no effect on employment at such dispensers.

Malcolm J. Broussard
Executive Director
0704#065

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Physical Therapy Examiners**

Licensure, Certification, and Practice
(LAC 46:LIV.121, 127, 155, 167-173,
303-311, 315, 321, 323, 327)

Notice is hereby given, in accordance with R.S. 49:950 et seq., and the Administrative Procedure Act, that the Louisiana State Board of Physical Therapy Examiners (Board), pursuant to the authority vested in the board by R.S. 2401.2A(3) and the provisions of the Administrative Procedures Act, hereby amends its existing rules as set forth below.

The Louisiana State Board of Physical Therapy Examiners is proposing rule amendments to clarify the application of the Physical Therapy Practice Act. The intent of the amendments is to clarify and enhance rules applicable to the supervision of Physical Therapy Assistants and other support personnel and to provide effective documentation of such supervision. Additionally, the proposed Rule will reduce the

potential for noncompliance with the Practice Act, thusly decreasing any potential expenses for disciplinary actions or loss of income as a result of disciplinary actions. Licensees and employers may incur a small indeterminable increase in costs for documenting supervision conferences in patient records as a result of the proposed Rule.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIV. Physical Therapy Examiners

Subpart 1. Licensing and Certification

Chapter 1. Physical Therapists and Physical Therapist Assistants

Subchapter D. Licensure by Reciprocity

§121. Qualifications for Licensure by Reciprocity

A. ...

B. A foreign Physical Therapy graduate who meets the requirements of Subsections 115.A and 121.A and who has practiced as a licensed physical therapist in another state for at least one year, may, with acceptable documentation of clinical experience, be eligible for licensure by reciprocity as a physical therapist at the discretion of the board. Licensure under this Subsection waives the period of supervised clinical practice set forth in Paragraph 115.A.3 of these rules.

C. To be eligible for licensure under Subsections A and B, all applicants shall have met the continuing education requirements contained in the Practice Act and/or the board rules within the 12 months preceding their application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 19:208 (February 1993), LR 33:

Subchapter E. Application

§127. Additional Requirements for Foreign Graduates

A. ...

B. As a condition to the board's consideration of a foreign graduate application, the board must receive a comprehensive credential evaluation certificate, based upon the Credentialing Coursework Tool, from an approved credentialing agency which includes, but is not limited to, the Foreign Credentialing Commission on Physical Therapy (FCCPT).

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 19:208 (February 1993), LR 26:1444 (July 2000), LR 33:

Subchapter G. Temporary Permit

§155. Permit Pending Re-Examination; Examination Limit; Additional Requirements

A. An applicant who possesses all of the qualifications for licensure prescribed by §107 of this Chapter, except for Paragraphs 107.A.5 and 107.B.5, who has once failed the licensing examination, and who has applied to the board for re-examination within 10 days of receipt of written notice of

failure and completed all requirements for re-examination shall be issued a new temporary permit to be effective for no more than 60 days.

B. If an applicant has failed to achieve a passing score on the required examination after three attempts, the applicant may again be examined only upon the board's approval, which approval may be conditioned upon the prior successful completion by the applicant of any additional education or clinical training prescribed by the board.

C. A physical therapist or physical therapist assistant holding a temporary permit issued under this Section may practice physical therapy only with continuous supervision as defined in Subsection 305.A.

D. A temporary permit issued under this Section shall expire upon the earliest of:

1. the expiration of the time period for which the permit was issued;

2. actual receipt by the permit holder of notice from the board that he has failed to achieve a passing score on the licensing examination;

3. the licensee's failure to claim notice of his failure, which was mailed to the licensee by certified mail, return receipt requested, within the time allowed after being notified by the United States Postal Service; or

4. failure of a permit holder to appear for and take the licensing examination within the 60 day permit period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), LR 19:208 (February 1993), LR 26:1446 (July 2000), LR 33:

Subchapter H. License and Permit Issuance, Termination, Renewal and Reinstatement

§167. Reinstatement of License

A. - C.2. ...

D. To be eligible for license reinstatement under this Section, all applicants shall have met the continuing education requirements contained in the Rules within the 12 months preceding their application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 28:1979 (September 2002), LR 33:

Subchapter I. Continuing Education

§169. Requirements

A. Unless exempted under §173, licensees shall successfully complete, document and report to the board at least 1.2 units, or 12 hours of acceptable continuing education credit during each calendar year.

B. - B.3.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), amended LR 17:664 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 26:1446 (July 2000), LR 28:1980 (September 2002), LR 33:

§171. Report Requirements

A. It is the responsibility of each licensee to assure that his continuing education hours are timely reported to the board.

B. The reporting of continuing education hours by course sponsors or licensees shall be made only on forms approved and available by the board. Forms filed by course sponsors or licensees shall be legibly printed or typewritten, and shall be completed and signed by the course sponsor or licensee.

C. Continuing education reporting forms shall be filed with the board no later than December 31 of each year.

D.1. The filing date of continuing education reporting forms, if mailed and properly addressed to the board with sufficient postage, shall be the earliest of:

- a. the legible date of the United States Postal Service postmark; or
- b. an official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof; or
- c. the date of actual receipt by the board.

2. Legal holidays and days on which the office of the board is officially closed shall not extend the filing deadline specified in Subsection C hereof.

E. Original continuing education documentation, including, but not limited to, certificates of participation, signed by course instructors verifying course attendance and completion, and official college coursework transcripts shall be retained by course sponsors and licensees for a period of three years. Upon request, course sponsors and licensees shall supply the board with such documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:665 (July 1991), amended LR 19:208 (February 1993), LR 33:

§173. Exemptions

A. Physical therapists or physical therapist assistants licensed in Louisiana are exempt from the Subchapter I continuing education requirements during the calendar year in which they graduate from a program accredited pursuant to the Practice Act.

B. Upon approval by the board of a request made in compliance with Subsection C, the board may extend the period for compliance or exempt the following from compliance with the Subchapter I continuing education requirements:

- 1. licensees on extended active military service for a period in excess of three months during the applicable reporting period; or
- 2. licensees who are unable to fulfill the requirement because of illness or other personal hardship.

C. Written requests for an exemption under Subsection B, including supporting documentation, must be received by the board at least 90 days prior to the end of the calendar year for which the exemption is sought, or immediately after the licensee becomes aware of the facts or circumstances upon which the exemption is sought, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR

17:665 (July 1991), amended LR 19:208 (February 1993), LR 21:394 (April 1995), LR 33:

Subpart 2. Practice

Chapter 3. Practice

Subchapter A. General Provisions

§303. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified.

Nursing Home—place of residence and not a health care facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), LR 21:394 (April 1995), LR 24:39 (January 1998), LR 33:

§305. Special Definition: Practice of Physical Therapy

A. As used in the definition of *practice of physical therapy* set forth in the Physical Therapy Practice Act, and as used in this Chapter, the following terms shall have their meanings specified.

Consultative Services—providing information, advice, or recommendations with respect to physical therapy, but does not include the administration of physical therapy treatment, and therefore, can be performed without referral or prescription.

Continuous Supervision—responsible, continuous, on-the-premises observation and supervision by a licensed physical therapist of the procedures, functions and practice rendered by a physical therapy technician; student; physical therapist assistant permittee pending licensure by examination or re-examination; and physical therapist temporary permittee who has once failed the licensing examination.

On Premises—that the supervising physical therapist is personally present in the treating facility and immediately available to the treatment area.

Passive Manipulation—manipulation or movement of muscular or joints other than by the spontaneous function of the body or active effort on the part of the patient.

Periodic Supervision—as related to:

a. *temporary permit* holders who are graduates of APTA accredited programs, shall mean:

i. daily face to face or phone communication between the supervising physical therapist and permit holders; and

ii. on premises observation of patient care in each of the permittees' practice locations, a minimum of two hours per day with a minimum total of 10 hours per week;

b. foreign physical therapy graduates, holding a temporary permit, shall mean daily face to face communication and on premises observation of patient care in each of the permittees' practice settings for at least 1/2 of the hours worked each day until the permittee passes the licensing exam. After passing the examination, the permittee shall require on premises observation of patient care in each practice setting a minimum of one hour per day with a minimum total of five hours per week. If the permittee fails

the examination on his first attempt, he shall require continuous supervision;

c. licensed physical therapist assistants and physical therapist assistant permittees pending approval of licensure by reciprocity shall vary according to the treatment facility as outlined in §321.

Physical Therapy Evaluation—the evaluation of a patient by the use of physical and mental findings, objective tests and measurements, patient history, and their interpretation, to determine musculoskeletal and biomechanical limitations, to determine his suitability for and the potential efficacy of physical therapy and the establishment or modification of treatment goals and a physical therapy treatment program.

Physical Therapy Supportive Personnel

a. *Physical Therapy Technician*—a worker not licensed by this board who functions in a physical therapy clinic, department or business and assists with preparation of the patients for treatment and with limited patient care;

b. *Physical Therapist Assistant*—a person licensed by the board who is a graduate of an associate degree program in physical therapist assisting accredited by the Commission on Accreditation of Physical Therapy Education (CAPTE) or was granted licensure pursuant to R.S. 37:2403.D;

c. the level of responsibility assigned to physical therapy supportive personnel is at the discretion of the physical therapist, who is ultimately responsible for the care provided by these individuals. Supportive personnel may perform only those functions for which they have documented training and skills. The prohibitions for physical therapy supportive personnel shall include, but not be limited to, interpretation of referrals; performance of evaluations; initiation or adjustment of treatment programs; assumption of the responsibility for planning patient care; or any other matters as determined by the board. The physical therapist shall only delegate portions of the treatment session to a technician only after the therapist has assessed the patient's status.

Preventative Services—the use of physical therapy knowledge and skills by a physical therapist to provide education or activities in a wellness setting for the purpose of injury prevention, reduction of stress and/or the promotion of fitness, but does not include the administrations of physical therapy treatment and, therefore, can be performed without referral or prescription.

Topical Agents/Aerosols—topical medications or aerosols used in wound care which are obtained over the counter or by physician prescription or order.

Wound Care and Debridement—a physical therapist, physical therapist permittee or student physical therapist may perform wound debridement and wound management that includes, but is not limited to, sharps debridement, debridement with other agents, dry dressings, wet dressings, topical agents including enzymes, and hydrotherapy. A physical therapist assistant, physical therapist assistant permittee or student physical therapist assistant shall not perform sharps debridement. The board's licensees and permittees, as well as students and supportive personnel, shall comply with the supervision requirements set forth in §321.

Written Treatment Plan or Program—written statements made by a physical therapist that specify the measurable goals, specific treatment to be used, and proposed duration and frequency of treatment. The written treatment plan or program is an integral component of a physical therapy evaluation, however, the written treatment plan or program must be completed by the physical therapist prior to delegation of appropriate treatment of a physical therapist assistant.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:666 (July 1991), LR 19:208 (February 1993), LR 21:1243 (November 1995), LR 24:40 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 33:

Subchapter B. Prohibitions

§307. Unauthorized Practice

A. ...

B. A physical therapist shall exercise sound professional judgment based upon his knowledge, skill, education, training, and experience, and shall perform only those procedures for which he is competent. If diagnostically or otherwise the physical therapist becomes aware of findings and/or the need for treatment which are outside the scope of the physical therapist's knowledge, experience, or expertise, the physical therapist shall notify the patient/client and refer the patient/client to an appropriate practitioner.

C. A physical therapist shall use the letters "P.T." in connection with his name or place of business to denote licensure. A physical therapist assistant shall use the letters "P.T.A." in connection with his name to denote licensure. No person shall hold himself out to the public, an individual patient, a physician, dentist or podiatrist, or to any insurer or indemnity company or association or governmental authority as a physical therapist, physiotherapist or physical therapist assistant, nor shall any person directly or indirectly identify or designate himself as a physical therapist, physiotherapist, registered physical therapist, licensed physical therapist, physical therapist assistant, or licensed physical therapist assistant, nor use in connection with his name the letters, P.T., L.P.T., R.P.T., or P.T.A., or any other words, letters, abbreviations, insignias, or sign tending to indicate or imply that the person constitutes physical therapy, unless such person possesses a current license or temporary permit duly issued by the board.

D. A physical therapy student who is pursuing a course of study leading to a degree as a physical therapist in a professional education program approved by the board as is satisfying supervised clinical education requirements related to his physical therapy education shall use the letters "S.P.T." in connection with his name while participating in this program. A physical therapist assistant student who is pursuing a course of study leading to a degree as a physical therapist assistant in a professional education program approved by the board and is satisfying supervised clinical education requirements related to his physical therapist assisting education shall use the letters "S.P.T.A." in connection with his name while participating in this program.

E. A licensed physical therapist is authorized to engage in the practice of physical therapy as set forth in the Physical Therapy Practice Act and the board's rules which includes, but is not limited to, the performance of physical therapy evaluations, consultative services, wound care and debridement, the storage and administration of aerosol and topical agents, the performance of passive manipulation, and preventative services all as more fully defined in §305.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 21:395 (April 1995), LR 24:40 (January 1998), LR 26:1447 (July 2000), LR 33:

§309. Exemptions

A. The prohibitions of §307 of this Chapter shall not apply to a person employed by any department, agency, or bureau of the United States Government when acting within the course and scope of such employment, nor shall they prohibit a person from acting under and within the scope of a license issued by an agency of the state of Louisiana.

B. A student shall be exempt from licensure when pursuing a course of study leading to a degree in physical therapy or physical therapist assisting in a professional education program approved by the board and is satisfying supervised clinical education requirements related to his education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 24:40 (January 1998), LR 33:

§311. Prohibitions: Licensed or Temporary Permit Physical Therapists

A. A physical therapist shall not:

1. - 3. ...

4. undertake to concurrently supervise more than three physical therapy technicians and/or physical therapist assistants, so that the ratio of supportive personnel to supervising licensed physical therapists is not in excess of three-to-one.

B. A physical therapist shall not abuse or exploit the physical therapy provider/patient or client relationship, or his relationship with peers or subordinates for any purpose, including for the purpose of securing personal compensation, gratification, or gain or benefit of any kind or type, any or all of which are unrelated to the provision of physical therapy services, including engaging in inappropriate sexual or inappropriately intimate conduct, which shall include, but not be limited to:

1. engaging in or soliciting a sexual or inappropriately intimate relationship, whether consensual or non-consensual, while a physical therapist or physical therapist assistant/patient or client relationship exists. Termination of the physical therapist/patient or client relationship does not eliminate the possibility that a sexual or inappropriately intimate relationship may exploit the vulnerability of the former patient/client;

2. making sexual advances, requesting or offering sexual favors or engaging in any other verbal conduct or

physical contact of a sexual or inappropriately intimate nature with patients or clients; or

3. intentionally viewing a completely or partially disrobed patient in the course of treatment, if such viewing is not reasonably related to patient diagnosis or treatment under current practice standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:667 (July 1991), LR 19:208 (February 1993), LR 21:1243 (November 1995), LR 33:

Subchapter C. Supervised Practice

§315. Scope of Chapter

A. ...

B. Before working in a school or home health setting, a physical therapist assistant shall have one year of supervised work experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), LR 33:

§321. Supervision Requirements

A. Licensed Physical Therapist Assistant

1. The level of responsibility assigned to the physical therapist assistant pursuant to §321.A is at the discretion of the physical therapist who is ultimately responsible for the care provided by this individual.

2. In acute care facilities, rehabilitation facilities, skilled nursing facilities and out-patient facilities, the supervising physical therapist shall:

a. perform an evaluation and set up a written treatment plan on each patient prior to implementation of treatment;

b. treat and reassess the patient and document on at least every sixth treatment day, but not less than once per month;

c. treat and assess the patient at discharge and write a discharge summary;

d. be on premises weekly (any seven consecutive days) for at least one-half of the physical therapy treatment hours in which the physical therapist assistant is rendering physical therapy treatment;

e. be readily accessible by beeper or phone and available to the patient by the next scheduled treatment session upon request of the patient or physical therapist assistant.

3. In school and home health settings, the supervising physical therapist shall:

a. perform an evaluation and set up a written treatment plan on each patient prior to implementation of treatment;

b. treat and reassess the patient and document on at least every sixth treatment day but not less than once per month;

c. treat and assess the patient at discharge and write a discharge summary;

d. conduct, once weekly and document, a face to face patient care conference with each physical therapist

assistant to review progress and modification of treatment programs for all patients;

e. be readily accessible by beeper or phone and available to the patient by the next scheduled treatment session upon request of the patient or physical therapist assistant.

4. In client preventative services rendered by a licensed physical therapist assistant, the supervising physical therapist:

a. shall perform an initial screening to determine if an individual qualifies for preventative services and document;

b. shall provide education or activities in a wellness setting through the establishment of a program for the purpose of injury prevention, reduction of stress and/or the promotion of fitness;

c. shall be readily accessible by beeper or mobile phone;

d. shall conduct and document a face to face conference with the physical therapist assistant regarding each client at least every 30 days commencing with the initiation of the preventative services for that client; and

e. may delegate only those functions to a physical therapist assistant for which he has documented training and skills.

B. - B.3. ...

C. Physical Therapy Technician

1. The level of responsibility assigned to a physical therapy technician is at the discretion of the physical therapist who is ultimately responsible for the care provided by the supervised individual(s).

2. In all practice settings, during the provision of physical therapy services, the supervising physical therapist shall provide continuous, in-person supervision of the physical therapy technician.

3. A physical therapy technician may assist a physical therapist assistant only with those aspects of patient treatment which have been assigned to the physical therapy technician by a physical therapist.

4. To ensure the safety and welfare of a patient during ambulation, transfers, or functional activities, the physical therapist assistant may utilize one or more physical therapy technicians for physical assistance.

5. The supervising physical therapist shall provide continuous, in-person supervision of client preventative services rendered by a physical therapy technician as follows:

a. perform and document an initial screening to determine if an individual qualifies for preventative services;

b. establish a wellness program, including education and activities, to promote injury prevention, reduction of stress and/or fitness;

c. delegate only those functions to a physical therapy technician for which the physical therapist has documented the training and skills of the physical therapy technician;

d. be available to the technician for direct and immediate verbal clarification.

D. Student. The supervising physical therapist shall provide continuous, on-premises supervision of a physical therapy or physical therapist assistant student in all practice settings.

E. Supervision Ratio. In any day, a supervising physical therapist shall not provide supervision for more than five individuals, nor exceed the following limitations as to supervised personnel:

1. more than three physical therapist assistants and/or technicians;

2. more than two permittees; or

3. more than five students.

F. Unavailability of Supervising Physical Therapist of Record for Permittees and Students. If, for any reason, a supervising physical therapist of record cannot fulfill his supervisory obligations:

1. for less than one week, a licensed physical therapist in good standing may supervise in his stead. In such case, the substitute physical therapist is not required to be approved by the board; however, the board approved supervisor, the substitute supervisor, as well as the supervised individual(s), shall be responsible for the care provided by those supervised;

2. for one week or more, the supervising physical therapist shall send written notification to the board for approval of a new supervising physical therapist during his period of absence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 33:

§323. Documentation Standards

A. A written record of physical therapy provided shall be kept on each patient or client served. A complete record shall include written documentation of prescription or referral, initial evaluation, treatment provided, P.T./P.T.A. conferences, progress notes, reassessment, and patient status at discharge.

1. - 2. ...

3. Progress note is the written documentation of the patient's subjective status, changes in objective findings, and progression or regression toward established goals. A progress note shall be written and signed by the attending physical therapist or physical therapist assistant and shall not be written or signed by a physical therapy technician. A progress note shall be written a minimum of once per week, or if the patient is seen less frequently, then at every visit.

4. - 5. ...

6. P.T./P.T.A. conference is the written documentation of the face-to-face conference held to discuss the status of the patient seen in the home health or school settings.

7. Discharge Summary is the written documentation of the reasons for discontinuation of care, degree of goal achievement and a discharge plan which shall be written and signed by the attending physical therapist. A discharge summary shall not be written or signed by a physical therapist assistant or other supportive personnel. A discharge summary shall be written at the termination of physical therapy care.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 21:395 (April 1995), LR 26:1447 (July 2000), LR 28:1981 (September 2002), LR 33:

Subchapter D. Disciplinary Proceedings

§327. Definitions

A. - D. ...

E. As used in R.S. 37: 2413.A.7 of the Physical Therapy Practice Act, the term *unprofessional conduct* means:

1. departure from, or failure to conform to, the minimal standards of acceptable and prevailing physical therapy practice in the state of Louisiana, regardless of whether actual injury to a patient results therefrom, including, but not limited to:

- a. failure to use sound professional judgment;
- b. performing procedures for which the physical therapist is not competent; or
- c. failure to inform and refer the patient/client to an appropriate practitioner, when the physical therapist becomes aware of findings and/or the need for treatment which are outside the scope of the physical therapist's competence;

2. - 5. ...

6. abuse or exploitation of the physical therapy provider/patient or client relationship for the purpose of securing personal compensation, gratification, or gain or benefit of any kind or type, any or all of which are unrelated to the provision of physical therapy services, including engaging in inappropriate sexual or inappropriately intimate conduct, which shall include, but not be limited to:

- a. engaging in or soliciting a sexual or inappropriately intimate relationship, whether consensual or non-consensual, while a physical therapist or physical therapist assistant/patient or client relationship exists;
- b. making sexual or inappropriately intimate advances, requesting or offering sexual favors or engaging in any other verbal conduct or physical contact of a sexual or inappropriately intimate nature with patients or clients; or
- c. intentionally viewing a completely or partially disrobed patient in the course of treatment if such viewing is not reasonably related to patient diagnosis or treatment under current practice standards;

E.7 - F.1 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 31 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), amended LR 19:208 (February 1993), LR 28:1981 (September 2002), LR 33:

Family Impact Statement

In accordance with the requirements of R.S. 49:972, the Board of Physical Therapy Examiners issues the following Family Impact Statement regarding the above proposed Rule.

1. There is no effect on the stability of the family.
2. There is no effect on the authority and rights of parents regarding the education and supervision of their children.
3. There is no effect on the functioning of the family.
4. There is no effect on family earnings and family budget.

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

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

Pursuant to the Administrative Procedure Act, if oral presentation or argument is requested by the requisite number of persons or the proper entities, then a public hearing on these matters will be held on May 30, 2007, at 3 p.m. at the office of the Board of Physical Therapy Examiners, 104 Fairlane Drive, Lafayette, LA 70507. Please contact the board office at (337) 262-1043 extension 102 to confirm whether or not the public hearing will be conducted.

Written comments concerning the proposed Rules may be directed to this address and to the attention of Cheryl Gaudin, Executive Director. Such comments should be submitted no later than the close of business at 4:30 p.m. on Wednesday, May 23, 2007.

Cheryl Gaudin
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Licensure, Certification, and Practice**

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

The Board will incur an implementation cost for publication and mailing the revised Practice Act, Rules and Regulations booklet. The cost involves reprinting of the booklet to incorporate the new amendments which are being promulgated. The new booklets, as amended, will be provided to the Board's licensees and other interested parties. It is anticipated that \$6,730 in printing costs, \$3,950 in mailing costs, and \$3,500 in personal and professional services will be incurred with the publishing of the proposed rules FY 07. 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 not anticipated that the proposed rule amendment will have any effect on the board's revenue collection.

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

It is anticipated the proposed rule revisions will clarify the application of the PT Practice Act. The intent of the amendment is to clarify and enhance rules applicable to the supervision of PTA's and other support personnel and to provide effective documentation of such supervision. Additionally, the proposed rules will reduce the potential for noncompliance with the Practice Act, thusly decreasing any potential expenses for disciplinary actions or loss of income as a result of disciplinary actions. Licensees and employer may incur a small indeterminable increase in costs for documenting supervision conferences in patient records as a result of the proposed rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated.

Cheryl Gaudin
Executive Director
0704#046

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**

Nursing Facilities—Reimbursement Methodology
Fair Rental Value Payment
(LAC 50:VII.1301 and 1312)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:VII.1301 and adopt §1312 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 amended the provisions governing the reimbursement methodology for nursing facilities to: 1) incorporate new definitions and revise current definitions; 2) provide clarifications on cost report submissions; and 3) adopt provisions governing verification of minimum data set assessments (MDS) and the appeal process for dispute of MDS review findings (*Louisiana Register*, Volume 28, Number 12). The bureau amended the December 20, 2005 Rule to revise the provisions governing emergency preparedness requirements for nursing facilities (*Louisiana Register*, Volume 32, Number 12). The department now proposes to amend the provisions governing the reimbursement methodology for nursing facilities to allow for an additional fair rental value payment when a Medicaid participating nursing facility purchases and closes an existing Medicaid participating nursing facility.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement Methodology

§1301. Definitions

Additional Fair Rental Value Payment—a seller's annual Medicaid fair rental value payment shared by eligible buyers.

* * *

Annual Medicaid Fair Rental Value Payment—the provider's most recent fair rental value per diem calculated under §1305.D.3 multiplied by the total Medicaid days reported on the provider's most recent base year cost report as determined in §1305.B.

* * *

Buyer—a Louisiana Medicaid participating nursing facility that purchases ownership of an existing Louisiana Medicaid participating nursing facility either individually or as a participant in a group purchase.

* * *

Seller—a Louisiana Medicaid participating nursing facility that is purchased by a Louisiana Medicaid participating nursing facility.

Surrender Date—the date closure of an acquired nursing facility and the surrender of the bed license to the state.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, 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 28:1473 (June 2002), repromulgated LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2261 (December 2006), LR 33:

§1312. Fair Rental Value Payments

A. On or after July 20, 2007, a Louisiana Medicaid participating nursing facility (buyer) that purchases and closes an existing Louisiana Medicaid participating nursing facility (seller) will be eligible to receive an additional fair rental value payment for five years after the purchase and closure of the seller's nursing facility.

B. To qualify for the additional fair rental value payment, all of the following conditions must be met.

1. Buyers must close the purchased nursing facility (seller) within 90 days of purchase.

2. After closing the facility, all buyers must permanently surrender the bed license of the purchased facility (seller) back to the state.

3. The buyers must request and receive written approval by the department to receive their pro rata share of the additional fair rental value payments. The request for approval must include the following:

- a. a list of all buyers;
- b. a list of all sellers;
- c. the date of the purchase transaction;
- d. the date the seller closed;
- e. each buyer's percentage share of the purchased facility; and
- f. a list of nursing facility residents that transferred from the seller to each buyer. The list should include all residents that were admitted to each buyer within two weeks of discharge from the seller including actual discharge and admission dates.

C. The buyer's Medicaid payment determination will be as follows.

1. The annual Medicaid fair rental value payment for the seller will be calculated and multiplied by each buyer's reported percentage share in the purchase of the seller. This will result in each buyer's additional fair rental value payment amount.

Example: Buyers A and B purchase and close seller C. Buyers A and B surrender the bed license of seller C. Buyer A has a 30 percent share and Buyer B has a 70 percent share in the purchase. Seller C has an annual Medicaid fair rental value payment of \$200,000. Under this scenario, buyers A and B are eligible to receive \$60,000 and \$140,000, respectively, in additional fair rental value payments.

2. All buyers will have their fair rental value and property tax and insurance pass-through per diems re-based using the number of residents transferred to the buyer from the seller within two weeks of discharge from the seller. The number of total resident days used in the calculation of the buyers' current fair rental value per diem under §1305.D.3 and the pass-through property tax and insurance per diem under §1305.D.4 will be increased by the number of transferred residents multiplied by the number of current calendar year days. This will result in a revised fair rental value per diem under §1305.D.3 and a revised property tax and insurance per diem under §1305.D.4 for all buyers.

Example: Buyer D purchases and closes seller E. Prior to the purchase, buyer D's fair rental value per diem of \$15.00 and property tax and insurance per diem of \$1.50 are based on a

40,000 resident day divisor from its base year cost report. Total fair rental value is \$600,000 (\$15.00 x 40,000) and total property tax and insurance is \$60,000 (\$1.50 x 40,000). Buyer D receives 25 residents from seller E and the current calendar year days are 365. Under this scenario, buyer D will receive re-based fair rental value and property tax and insurance per diems based on an increase of 9,125 resident days (25 residents x 365 days). This will result in a re-based fair rental value per diem of \$12.21 (\$600,000/49,125) and a property tax and insurance per diem of \$1.22 (\$60,000/49,125).

a. The resident day adjustment to the buyer's fair rental value and property tax and insurance per diems will continue until the buyer's rebase cost report, as defined under §1305.B, includes a full 12 months of resident day data following the purchase and closure of the acquired nursing facility. If the buyer's base year cost report overlaps the closure date of the acquired facility, a proportional adjustment to the buyer's resident days will be made for use in the fair rental value and property tax and insurance per diem calculations.

Example: Buyer D purchases seller E on February 1, 2007. Buyer D closes seller E on March 1, 2007. Buyer D receives 25 residents from seller E and the current calendar year days are 365. For the July 1, 2008 rebase, buyer D's June 30, 2007 cost report is used. Under this scenario, at the July 1, 2008 rebase, buyer D's cost report will include only 4 months of resident day data after the closure of seller E. Therefore, the additional resident day adjustment will be 25 residents x 365 days x 8/12 of a year or 6,083 additional resident days added to their rebase cost report total resident days.

D. The additional fair rental value payments, once calculated, will be paid to the buyer(s) in equal quarterly installments for five years (20 quarters) following the closure and bed license surrender of the acquired facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, 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 no impact on family functioning, stability or autonomy as described in R.S. 49:972.

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, May 29, 2006 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.

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Nursing Facilities Reimbursement Methodology Fair Rental Value Payment

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 \$272 for FY 06-07, \$218,705 for FY 07-08, and \$218,705 for FY 08-09. It is anticipated that \$544 (\$272 SGF and \$272 FED) will be expended in FY 06-07 for the state's administrative expense for promulgation of this proposed rule and the final rule. The cost to the state during the first five years may be less than estimated depending on the distribution of the patients following the closure of the selling facility. After the fifth year the state should realize a savings by the reduction of beds of the selling facility and this saving would be equal to the annual cost of the Fair Rental Value and the Property Tax and Insurance cost of the selling facility.

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 \$272 for FY 06-07, \$556,295 for FY 07-08, and \$556,295 for FY 08-09. It is anticipated that \$272 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 proposes to amend the provisions governing the reimbursement methodology for nursing facilities to allow for an additional fair rental value payment when a Medicaid participating nursing facility purchases and closes an existing Medicaid participating nursing facility (5 facilities are expected to participate). It is anticipated that implementation of this proposed rule will increase program expenditures for nursing facilities by approximately \$775,000 for FY 07-08 and \$775,000 for FY 08-09.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will promote quality care and increase efficiency and encourage nursing homes to operate at an occupancy level of ninety-five percent.

Jerry Phillips
Medicaid Director
0704#055

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Nursing Facilities—Resident Personal Fund Accounts
(LAC 48:I.9734)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 48:I.9734 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in

accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the licensing of nursing facilities (*Louisiana Register*, Volume 24, Number 1). The bureau now proposes to establish provisions governing nursing facilities which would allow a nursing facility resident's personal fund account to be jointly owned by the resident and his legal guardian or next of kin, and to establish provisions for the disbursement of these funds upon the death of the resident.

Title 48

PUBLIC HEALTH—GENERAL

PART I. General Administration

Subpart 3. Licensing

Chapter 97. Nursing Homes

Subchapter C. Resident Rights

§9734. Resident Personal Fund Account

A. A nursing facility resident, with a personal fund account managed by the nursing facility, may sign an account agreement acknowledging that any funds deposited into the personal fund account by, or on the resident's behalf, are jointly owned by the resident and his legal representative or next of kin. The account agreement must state that the:

1. funds in the account shall be jointly owned with the right of survivorship;
2. funds in the account shall be used by, for, or on behalf of the resident;
3. resident or the joint owner may deposit funds into the account; and
4. resident or joint owner may endorse any check, draft or other instrument to the order of any joint owner, for deposit into the account.

B. If a valid account agreement has been executed by the resident, upon the resident's death, the nursing facility shall transfer the funds in the resident's personal fund account to the joint owner within 30 days of the resident's death. This provision only applies to personal fund accounts not in excess of \$2000.

C. If a valid account agreement has not been executed, upon the resident's death, the nursing facility shall comply with the federal and state laws and regulations regarding the disbursement of funds in the account and the properties of the deceased.

D. The provisions of §105 shall have no effect on federal or state tax obligations or liabilities of the deceased resident's estate. If there are other laws or regulations which conflict with these provisions, those laws or regulations will govern over and supersede the conflicting provisions.

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 no impact on family functioning, stability or autonomy as described in R.S. 49:972.

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, May 29, 2007 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Nursing Facilities Resident Personal Fund Accounts

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

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 06-07. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in FY 06-07 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 06-07. It is anticipated that \$136 will be expended in FY 06-07 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This rule proposes to adopt provisions governing nursing facilities which would allow a nursing facility resident's personal fund account to be jointly owned by the resident and his legal representative or next of kin, and to establish provisions for the disbursement of these funds upon the resident's death. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 06-07, FY 07-08, and FY 08-09.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Jerry Phillips
Medicaid Director
0704#054

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Severance Taxes on Oil and Gas (LAC 61:I.2903)

Under the authority of R.S. 47:1511, R.S. 47:633 et seq., 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 amend LAC 61:I.2903, relative to the severance tax on oil, condensate or similar natural resources, natural gas liquids, and gas.

The proposed amendments provide definitions, explanations, and the method for determining the severance tax due. These amendments clarify, not alter, the appropriate method for determining or calculating the amount of the severance tax to be paid.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 29. Natural Resources: Severance Tax

§2903. Severance Taxes on Oil; Distillate, Condensate or Similar Natural Resources; Natural Gasoline or Casinghead Gasoline; Liquefied Petroleum Gases and Other Natural Gas Liquids; and Gas

A. Definitions and Explanations

Allocation of Value—inasmuch as oil and condensate are accounted for on a lease basis, rather than on an individual well basis, the gross value received for runs from a lease shall be allocated to the wells within the lease on the basis of the pro rata barrels run from each well. The value received shall be apportioned to all producing wells in a lease without regard to the tax rate applicable to each well.

Arm's-Length Transaction—a transaction, contract or agreement which represents or results in fair market value that has been arrived at in the marketplace between independent, unrelated, nonaffiliated parties with opposing economic interests regarding that transaction, contract or agreement and who are presumed to have roughly equal bargaining power.

Condensate—liquid hydrocarbons, other than natural or casinghead gasoline, which will remain in a liquid state, under atmospheric conditions of pressure and temperature and are recovered by ordinary production methods from a gas well classified as such by the Office of Conservation. The term "condensate" includes liquid hydrocarbons recovered from separators or scrubbers situated at inlets to plants, compressors, dehydrators, or metering stations, regardless of the type of well that produced the gas stream.

Department—the Department of Revenue.

Fair Market Value—the price a willing buyer would pay to a willing seller in an arm's-length transaction. For severance tax purposes, the term "fair market value" shall be synonymous with terms such as "market value", "market price", "fair market price" and "posted field price" and shall be used interchangeably with either or all of them, with no distinction.

First Purchaser—the first person who purchases oil from a producer or operator.

Gas—gaseous phase hydrocarbons recovered by separation from an oil or gas well.

Gas Tax Rate—the gas tax rate as adjusted annually in accordance with R.S. 47:633(9)(a)(i) will be rounded to the nearest 1/10 of 1 cent. When rounding, if the fourth decimal digit is five or greater, the rate shall be rounded up to the nearest tenth; if the fourth decimal digit is less than five, the rate shall be rounded down to the nearest tenth.

Gross Receipts—the total amount of payment received by the producer from the first purchaser in an arm's-length transaction or received or transferred from the first purchaser in a non-arm's-length transaction. Gross receipts shall include bonus or premium payments when made by the purchaser to the owner of the product, all advanced payments, and any other thing of value including, but not limited to, exchanges, barter, or reimbursement of costs. However, advanced payments are not taxable until the oil or condensate for which such payments are made are actually severed and delivered to the purchaser.

Incapable Gas Well—a well classified by the Office of Conservation as a gas well and which has been determined by the secretary to be incapable of producing an average of 250,000 cubic feet of gas per day under operating conditions during the entire taxable month.

Low Pressure Oil Well—a well classified by the Office of Conservation as an oil well and which has been determined by the secretary to have a wellhead pressure of 50 pounds per square inch gauge or less under operating conditions, whether it be tubing flow or casing flow, throughout the entire taxable month. In the absence of a determination to the contrary by the secretary, an oil well producing oil by any artificial method, such as gas lift, pumping or hydraulic lift, shall be presumed to have a wellhead pressure of 50 pounds per square inch gauge or less under operating conditions.

Natural Gas Liquids—liquid hydrocarbons such as natural or casinghead gasoline and other natural gas liquids, including but not limited to butane, propane, ethane, or methane, that are extracted or recovered from gas after the ultimate separation or scrubbing of the gas stream by specifically applied mechanical processes of absorption, adsorption, compression cooling, cryogenics and refrigeration to the entire volume of gas from which the natural gas liquid is recovered. The term "natural gas liquids" includes liquid hydrocarbons recovered from hydrex and HRU (hydrogen recovery unit) units, i.e., gas plants.

Non-Arm's-Length Transaction—a transaction, contract or agreement between subsidiaries or related parties or affiliates that is not arm's-length. The term "non-arm's-length transaction" includes, but is not limited to, exchanges, buy/sell agreements, and balancing agreements, and other transactions where the intent is not to sell the product but to move it for the benefit of the parties, even if the parties to the transaction, contract or agreement are not subsidiaries, related parties, or affiliates.

Oil—liquid hydrocarbons recovered by initial separation from a well classified as an oil well by the Office of Conservation.

Operator—a person who assumes responsibility for the physical operation and control of a well and is the operator of record with the Office of Conservation.

Payout—the payout of the well cost for a horizontal well as referred to in R.S. 47:633(7)(c)(iii), a deep well as referred to in R.S. 47:633(9)(d)(v), or a new discovery well as referred to in R.S. 47:648.3 occurs when gross revenue from all products produced from the well, less royalties and operating costs directly attributable to the well, equals the well cost as approved by the Office of Conservation. Operating costs are limited to those costs directly attributable to the operation of the exempt well, such as direct materials, supplies, fuel, direct labor, contract labor or services, repairs, maintenance, property taxes, insurance, depreciation, and any other costs directly attributed to the operation of the well. Operating costs do not include any costs that were included in the well cost approved by the Office of Conservation. Charges or costs for transportation shall not be included or used to determine the payout of the well cost.

Point of Disposition—the point at which a purchaser or transporter assumes custody of liquids. The disposition point can be a lease, unit, well, commingling facility, common battery, lease battery, gas well, pipeline, or market center.

Producer—the owner of a well capable of producing oil, gas or both oil and gas. The terms "producer" and "operator" shall have the same meaning and may be used interchangeably.

Raw Make—liquid hydrocarbons extracted or recovered from a natural gas stream, regardless of the type of well that produced the gas stream.

Secretary—the Secretary of the Department of Revenue or representative of the secretary.

Severer—any person engaged in severing oil or gas from the soil or water of this state, or operating oil or gas property or other property from which oil or gas is severed, regardless of whether the person is severing from their own property, the property of another, is the owner of the oil or gas and is severing from property of another person, or is severing oil or gas under contracts or agreements requiring payment as described in R.S. 47:636.

Stripper Field—a field in which all crude oil production is from certified stripper oil wells.

Value—fair market value.

B. Determination of Value—Oil or Condensate

1. The value of oil or condensate shall be the higher of the gross receipts of all things of value received directly or indirectly by the producer or fair market value, less allowed costs of transportation, as defined in §2903.B.3. In no case shall any other deductions be allowed.

2. When oil or condensate is exchanged for something other than cash, or there is no sale at the time of severance, or the relation between the buyer and seller is such that the consideration paid, if any, is not indicative of the fair market value of the oil or condensate, the transaction will be deemed non-arm's length. In such cases, the following may provide the basis for determining the value of the oil or condensate:

a. North Louisiana Production—the pricing assessment published by Platts Oilgram for Empire Louisiana. North Louisiana production is based on the parish in which the field is located, as designated by the Office of Conservation;

b. South Louisiana Production—the pricing assessment published by Platts Oilgram for St. James,

Louisiana. South Louisiana production is based on the parish in which the field is located, as designated by the Office of Conservation.

3. Only the actual and reasonable charges incurred by the producer for trucking, barging, and pipeline fees to transport the oil or condensate from the point where the volume of oil or condensate to be sold has been measured to the first place or point of disposition shall be deducted from the value of oil or condensate. In no case shall the deduction allowed for costs of transportation include charges, costs, or fees for gathering or handling the oil or condensate. The deduction allowed for costs of transportation shall only apply in cases where the actual sales price or market price is determined at a point off the lease.

C. Certification for Reduced Tax Rates. A taxpayer may qualify for the lesser tax rates levied in R.S. 47:633(7)(b) and (c), and R.S. 47:633(9) by certifying and reporting production and test data, on forms prescribed by the secretary.

1. Oil. Oil production is certified for reduced severance tax rates provided by R.S. 47:633(7)(b) or (c)(i)(aa) by individual well. To receive the reduced tax rate on the crude oil production from an oil well, an application must be filed with the secretary on or before the twenty-fifth day of the second month following the month in which production subject to the reduced rate applies.

a. After a well has been certified for the reduced tax rate, it is necessary to file continuing certification forms on or before the twenty-fifth day of the second month following the month of production.

i. It is not necessary to include stripper wells that are certified with a "B" prefix code on the continuing certification forms.

ii. Failure to file or delinquent filing of the continuing certification forms may result in certification denial for the month's production that the report is delinquent or not filed.

b. Wells cannot be certified as both a stripper and an incapable oil well at the same time.

c. Recertification is required whenever the well operator changes.

d. All wells are subject to redetermination of their reduced rate status based on reports filed with the Department and the Office of Conservation. When a well no longer meets the qualifications for the reduced tax rate for which it was certified, the full tax rate becomes due.

i. A new certification is required whenever the well's tax rate status changes.

ii. Crude oil production from a multiple well lease or property is not subject to the reduced tax rate, unless all such wells are certified as incapable.

2. Gas. Gas production is certified for reduced severance tax rates provided by R.S. 47:633(9)(b) and (c) by individual well. To receive the reduced severance tax rate on natural gas or casinghead gas production, an application must be filed with the secretary on or before the twenty-fifth day of the second month following the month in which production occurs.

a. The well cannot be certified as both an incapable gas well and an incapable oil well at the same time.

b. If the well changes from one tax rate status to another a new certification is required.

c. Recertification is required whenever the well operator changes.

d. All wells are subject to redetermination of their reduced rate status based on reports filed with the department and the Office of Conservation. When a well no longer meets the qualifications for the reduced tax rate for which it was certified, the full tax rate becomes due.

D. Determination of Taxable Volume—Liquids. It is the duty of the severer to measure the volume of oil, condensate or similar natural resources immediately upon severance or as soon thereafter as these hydrocarbons come into being in the form on which the tax is imposed.

1. In any arm's-length transaction involving oil, condensate or similar natural resources individually or in a commingled combination, the method of measurement utilized by the first purchaser and the seller for determining the total volume involved and the volumes applicable to the properties involved is acceptable and may be used for the determination of the volumes to which the appropriate tax rates apply.

2. In the absence of an arm's-length transaction or for any other reason where the secretary deems that the method of measurement is prejudicial to the state's best interests, the secretary shall prescribe an acceptable method of measurement.

3. When liquid hydrocarbons bearing various tax rates are commingled without proper prior measurement as prescribed below, the entire commingled volume shall be taxed at the highest tax rate applicable to any oil or condensate present in the commingled volume.

4. Proper measurement prior to commingling oil and condensate shall be as outlined below.

a. Stock Tank Measurement. When oil, condensate or similar natural resources are produced into stock tanks, the tanks shall be strapped on a 100 percent basis. All measurements, gravity determination, temperature corrections to 60°F, and determinations of basic sediment and water (BS and W) shall be made in accordance with procedures outlined in the latest American Petroleum Institute (API) code covering measuring, sampling, testing of crude oil, and the American Society for Testing Materials—Institute of Petroleum (ASTM-IP) petroleum measurement tables.

b. Liquid Metering Devices. When oil and condensate are not stock tank measured but must be measured at pressures above atmospheric pressure, such liquids shall be measured by means of a liquid metering device. The meter shall be calibrated at least once every 90 days and records of calibration and all other pertinent test results shall be kept on file for the same period of time as the prescriptive period relative to taxes and must be available for examination by representatives of the department. The taxpayer may pay tax on the metered volume or allocated meter volume at the meter measurement pressure corrected to 60°F. When a flash factor is required to convert the volume at the meter measurement pressure to the volume at atmospheric pressure, the flash factor may be obtained by either utilizing the equilibrium vaporization flash calculation method or the differential vaporization process.

c. Well Tests. When crude oil or condensate are not stock tank measured or measured by liquid measuring devices, the use of well tests, split stream tests, full stream

tests or other acceptable and recognized methods of determining the liquid volume of full well stream shall be employed as a measurement device for allocation purposes.

5. When oil or condensate is commingled with a liquid hydrocarbon bearing a lesser tax rate, the oil or condensate shall be taxed on the basis of value received for the entire commingled product.

a. When oil or condensate bearing various tax rates is commingled prior to separate measurement, the commingled volume shall be taxed at the highest tax rate applicable to any oil or condensate present in the commingled volume. The separate measurement requirement is met when one of the products is properly measured prior to commingling.

E. Determination of Taxable Volume—Gas. It is the duty of the severer to measure the volume of gas immediately upon severance or as soon thereafter as the substance comes into being in the form on which the tax is imposed.

1. Gas produced from an individual gas well, regardless of whether the well is capable or incapable, shall be measured by means of a meter or well tests acceptable to the secretary. Metering may be accomplished by the backout method, whereby the volume produced by one of two or more wells may be ascertained by subtracting from the combined metered volume the measured volumes from the rest of the wells. All measurements shall be made at a pressure base of 15.025 pounds per square inch absolute and at a temperature of 60°F with corrections made for deviations from Boyle's law when measurement pressures exceed 200 pounds per square inch gauge.

2. Gas produced from individual oil wells may be determined by an allocation of the total metered volume based on gas/oil ratios or solution oil ratios acceptable to the secretary. Records pertaining to volume determinations shall be kept on file for examination and verification by representatives of the secretary.

3. When gas volumes bearing various tax rates are commingled, the volumes bearing each different tax rate must be determined prior to commingling as outlined in §2903.E.1 or 2. When such commingling occurs and it is determined by the secretary or his representative that the prescribed measurement requirements have not been met, the entire commingled volume shall be taxed at the highest rate applicable to any gas present in the commingled volume.

F. Application of the Tax on Gas. All gas other than gas expressly exempted from the tax under the provisions of R.S. 47:633(9)(e) is subject to the tax. The determination of whether gas lift gas is taxable or exempt shall be made in the same manner as for formation gas.

1. Gross gas production shall be an accumulation of the total dispositions of formation gas from a well or lease. Gas exhausted from a gas lift installation, commonly called "re-cycled gas," and commingled with formation gas shall not be included in the volume of gas produced from the underground formation. Dispositions shall include, by way of illustration but not by way of limitation, gas used for field operations, within or without the field, gas vented into the atmosphere, gas used elsewhere for gas lift, gasoline and natural gas liquids extracted (which must be converted to gas), and gas delivered to a processing plant, sales or deliveries.

2. Gas that has not previously borne tax or been subject to tax shall not be allowed as an exclusion or tax credit upon injection, but will be allowed as an exclusion when ultimately reproduced. Thus, gas produced in another state or in federal offshore areas would not qualify for an exclusion or tax credit upon injection into the formation in the state of Louisiana.

3. Gas that has previously been allowed as an exclusion or tax credit at the time of injection shall be taxed at the time of reproduction, notwithstanding the fact that it may have been originally produced outside the state of Louisiana.

4. Gas produced without the state of Louisiana which has been injected into the earth in the state of Louisiana will be allowed as an exemption to the extent that the exemption will not exceed the production from the same formation. Adequate records must be maintained by the taxpayer so as to identify the nontax paid injected gas at the time of reproduction and qualify for the exclusion.

5. When capable and incapable gas volumes are commingled and gas is subsequently withdrawn from the commingled mass and used for a purpose which makes the gas exempt from the severance tax, it will be presumed that the ratio of the volumes of capable and incapable gas remaining in the commingled mass will be in the same ratio as before withdrawal.

6. Carbon Black

a. Carbon black exclusions may be allocated to leases on a contractual basis, provided, however, that such gas is physically capable of being consumed as carbon black. In the absence of contractual limitations, the allocation of plant fuel and carbon black shall be on an equitable and reasonable basis.

b. Whenever sales or deliveries are made for plant fuel or carbon black usage, the consumer of such plant fuel and the transporter or seller of the gas used for carbon black shall be required to submit a report monthly to the department showing 100 percent entries into its gas streams involved and an allocation of the plant fuel or carbon black usage withdrawn from the stream back to the sources entering the commingled mass.

7. Drip Points

a. No additional severance tax is due on scrubber liquids recovered subsequent to a point at which the gas severance tax has been paid, provided, however, such recovery has been made from a pipeline gas stream owned and operated by someone other than the producer of the gas, the scrubber liquids are recovered after the gas has changed ownership, and the producer receives no revenue or other thing of value from the sale of plant products or raw make removed from the gas stream.

b. When severance tax is due and paid on scrubber liquids, natural, or casinghead gasoline recovered from gas subsequent to a point at which the gas severance tax on the gas has been previously paid, a credit will be given for the gas shrinkage volume resulting from the recovery of these scrubber liquids, natural, or casinghead gasoline. This gas severance tax credit shall be made on an actual vapor equivalent or at 1,260 cubic feet of gas per barrel of liquid recovered.

8. Gas used or consumed as fuel in the operation of a recycling or gasoline plant for purposes other than the

production of natural resources in the state of Louisiana shall not be exempt from the tax. The extraction or fractionation of liquefied petroleum gases (LPG) or natural or casinghead gasoline does not constitute production of natural resources.

G. Exclusions from the Gas Severance Tax

1. Gas injected into the formation in the state of Louisiana.

2. Gas produced without the state of Louisiana which has been injected into the earth in the state of Louisiana.

3. Gas vented or flared from oil and gas wells, provided such gas is not otherwise sold. There shall be no exclusion allowed for gas flared at gasoline or recycling plants if such gas is attributable to raw gas volumes which are sold by the producer prior to plant processing.

4. Gas used for fuel in connection with the operation and development for or production of oil and gas in the field where produced, provided such gas is not otherwise sold.

5. Gas used for drilling fuel in the field where produced even though sold for that purpose.

6. Gas used in the manufacture of carbon black.

7. Gas attributable to United States government royalty.

8. Gas accounted for as measurement differences.

a. Only measurement differences that occur as a result of reasonable losses are excluded from the gas severance tax.

b. Measurement differences that occur as a result of gains are not excluded from the gas severance tax and are taxable at the applicable tax rate.

H. Reports and Returns

1. All returns and reports shall be made on forms prescribed by the secretary or substantially similar forms approved for use by the secretary. Returns and reports shall be completed and filed in accordance with instructions issued by the secretary.

2. The secretary is empowered to require any person engaged in severing natural resources, or any other person held liable for severance taxes, to furnish necessary information pertaining thereto for the proper enforcement, and verification of taxes levied in R.S. 47:631 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:633, 47:648.3, and 47:1511.

HISTORICAL NOTE: Adopted by the Department of Revenue and Taxation, Severance Tax Division, August 1974, amended LR 3:499 (December 1977), amended LR 20:1129 (October 1994), repromulgated LR 20:1299 (November 1994), amended by the Department of Revenue, Severance Tax Division, LR 23:1167 (September 1997), LR 24:2321 (December 1998), LR 29:951 (June 2003), LR 32:1615 (September 2006), amended by the Department of Revenue, Policy Services Division, LR 33:

Family Impact Statement

This Family Impact Statement is provided as required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature.

1. Implementation of this proposed Rule will have no effect on the stability of the family.

2. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

6. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Annie L. Gunn, Attorney, Policy Services Division, Department of Revenue, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by May 25, 2007. A public hearing will be held on May 30, 2007, at 1 p.m. in the Calcasieu Room on the Second Floor of the LaSalle Building at 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Severance Taxes on Oil and Gas**

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

The proposed amendments to LAC 61:I.2903 provides definitions, explanations, standards and guidelines for payment of the severance tax on oil, condensate, and gas. The amendments also provide the method by which the value of oil and/or condensate is determined when computing the severance tax due. Implementation of this proposed amendment will have no effect on the costs or savings to state or local governmental units.

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

These proposed amendments are estimated to increase annual state severance tax revenue collections by approximately \$1.9 million because producers will only be allowed to deduct actual transportation costs billed by third parties, and will not be allowed the option of deducting the standard 25 cents per barrel if they have no third-party transportation costs, or their actual costs are less than 25 cents per barrel. There will be no effect on the revenue collections of local governmental units.

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

These proposed amendments will require oil producers to pay approximately \$1.9 million more severance tax annually because the producers will only be allowed to deduct their actual transportation costs billed by third parties and will not be allowed the option of deducting the standard 25 cents per barrel if they have no third-party transportation costs, or their actual costs are less than 25 cents per barrel.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendment will have no effect on competition or employment.

Cynthia Bridges
Secretary
0704#051

Robert E. Haas
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

Daycare Services (LAC 67:V.2301)

The Department of Social Services, Office of Community Services, proposes to amend the Louisiana Administrative Code, Title 67, Part V, Subpart 4, Family Services, pursuant to the authority granted to the department by the Child Care and Development Fund and to establish standard rates for day care services reimbursed by the department.

Title 67

SOCIAL SERVICES

Part V. Community Services

Subpart 4. Family Services

Chapter 23. Daycare

§2301. Daycare Services

A. ...

B. Class A Day Care Centers will be reimbursed for day care services at the same reimbursement rate as the Office of Family Support Child Care Assistance Program. When a center's rate is less than the maximum amount reimbursed by the department, the department reimbursement rate will be the center's usual charge for day care services.

C. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 11:689 (July 1985), amended LR 18:868 (August 1992), LR 25:243 (December 1999), LR 31:101 (January 2005), LR 33:

All interested persons may submit written comments to Marketa Garner Gautreau, Assistant Secretary, Office of Community Services, P.O. Box 3318, Baton Rouge, LA 70821. She is responsible for responding to inquiries regarding this proposed Rule.

Family Impact Statement

1. The Effect on the Stability of the Family. This Rule could positively impact family stability by improving the quality of care supplied by childcare providers for children receiving services.

2. The Effect 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 persons regarding the education and supervision of their children. The services are a parental option and the parents choose the day care facility their children attend.

3. The Effect on the Functioning of the Family. Day care services contribute to family stability by assisting to protect children from abuse/neglect and contributing to foster care and adoptive placement stability. Therefore, the services have a positive effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. This Rule will have no effect as the department reimburses the center for the services.

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

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. No, this program and the procedure for reimbursement are agency functions.

Ann S. Williamson
Secretary

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

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

This rule change proposes to establish standard rates for day care services reimbursed by the department. As a result, Class A Day Care Centers pay rate will increase from \$16.50 to \$17.50 per day effective January 1, 2007. The cost for SFY 2006-2007 is expected to be \$154,038 (based on five months 2/06-6/06) and will be funded with Federal Child Care Block Grant (CCGB) funds, which the agency will receive as Interagency Transfers from the Office of Family Support (OFS). The CCBG funds are appropriated in OFS's FY 06-/07 budget. An additional \$172 (State General Fund) is needed in SFY 06-07 to publish the Notice of Intent and Rule in the Louisiana Register. The agency has sufficient funds to cover this cost. The estimated cost for SFY 07-08 and 08-09 is \$369,692, and will be funded with CCBG funds.

There will be no savings as a result of the increase in the reimbursement rate to day care centers.

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

Implementation of this rule will have no effect on state or local revenue collections.

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

Class A Day Care Centers will benefit from this rule change because their pay rates will increase from \$16.50 to \$17.50 per day per child.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Marketa Garner Gautreau
Assistant Secretary
0704#059

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Mourning Dove Hunting Zones (LAC 76:V.323)

The Department of Wildlife and Fisheries and Wildlife and Fisheries Commission do hereby advertise their intent to establish mourning dove hunting zones.

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 Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 3. Wild Birds

§323. Mourning Dove Hunting Zones

A. The state shall be divided into North and South Mourning Dove Hunting Zones by the following boundary: Beginning at the Texas-Louisiana border on La. Highway 12; thence east along La. Highway 12 to its intersection with U.S. Highway 190; thence east along U.S. Highway 190 to its intersection with Interstate 12; thence east along Interstate 12 to its intersection with Interstate 10; thence east along Interstate 10 to the Mississippi state line.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by 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 Mr. David Moreland, Administrator, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than Wednesday, June 6, 2007.

Earl P. King, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Mourning Dove Hunting Zones**

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 additional cost or savings are anticipated.

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)

Establishing north and south zones for mourning dove hunting will allow the Louisiana Wildlife and Fisheries Commission to develop mourning dove seasons that better meet the interests of the hunters within each zone. Louisiana has from 40,000 to 50,000 mourning dove hunters each year. Based on results from a recent survey of dove hunters conducted by the Louisiana Department of Wildlife and Fisheries, over 80 percent of dove hunters supported the use of zoning and about 45 percent supported the proposed boundary, more than twice the level of support for any other suggested boundary.

No additional costs, workload or paperwork to directly affected persons or non-governmental groups will be incurred. Commercial dove field operators may experience a slight increase in revenues, if the demand for dove hunting increases.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

No effect on competition and employment is anticipated.

Wynette Kees
Deputy Undersecretary
0704#043

Robert E. Hosse
Staff Director
Legislative Fiscal Office