

# Notices of Intent

## NOTICE OF INTENT

**Department of Economic Development  
Office of Business Development  
Office of Entertainment Industry Development**

Sound Recording Production and Infrastructure  
Tax Credit Programs  
(LAC 61:I.1631-1639)

The Department of Economic Development, Office of Business Development, Office of Entertainment Industries Development pursuant to the authority of R.S. 47:6023 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 Sound Recording Production and Infrastructure Tax Credit Programs. The purpose of this proposed Rule is to establish program policies and procedures in the administration of the Sound Recording 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 D. Louisiana Sound Recording Investor Tax Credit Program

##### §1631. Purpose and Description of Louisiana Sound Recording Investor Tax Credit Program

A. The purpose of this program is to encourage development in Louisiana of a strong capital and infrastructure base for musical recording productions in order to achieve an independent, self-supporting music industry, and to encourage investments in multiple state-certified musical production projects and infrastructure.

B. Approvals and certifications as to whether a project qualifies as a state-certified production as required for Sound Recording Investor Tax Credits are not to be considered as entitlements for sound recording production companies, and the Louisiana Department of Economic Development shall have the discretion to determine whether or not each particular sound recording or infrastructure project, meets the criteria for such qualification 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. These Rules implement the Louisiana Sound Recording Investor Tax Credit pursuant to R.S. 47:6023. This credit was created by Act 485 (H.B. 631), Laws 2005 and amended by Act 368 (S.B. 70), Laws 2007 of Reg. Sess., effective July 1, 2007.

D. These provisions are in addition to and shall not limit the authority of the Secretary of the Department of Revenue to assess or to collect under any other provision of law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

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

### §1633. Definitions

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

*Base Investment*—shall mean 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 or other legal entity in the development of a state-certified infrastructure project. Infrastructure Expenditures shall include, but are not limited to, expenditures for sound recording infrastructure project development, sound recording production spaces, sound production equipment, facilities, equipment for sound recording companies domiciled within Louisiana, sound processing and recording equipment, land acquisition and closing costs, construction costs, design and professional consulting fees associated with the state-certified infrastructure project, furniture, fixtures, percussion, pianos, keyboards, organs, musical and amplification equipment, and financing costs which shall remain permanently located within Louisiana for the useful life of the object. Infrastructure Expenditures shall not include indirect costs, any amounts that are later reimbursed by a third party, any costs related to the allocation 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.

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

*Expended in the State*—in the case of tangible property which is acquired from a source within the state, and in the case of services, shall mean services procured and performed in the state.

*Holder*—the holder of a partnership interest, membership interest, or other similar ownership interest on any entity not taxed as a corporation.

*Investor*—any individual or entity domiciled in Louisiana and that makes an investment in a state-certified production or infrastructure project.

*Secretary*—Secretary of the Louisiana Department of Economic Development.

*Series*—more than one state-certified production being financed, or produced by or on behalf of the sound recording company or an affiliate grouped together in such a way that the group meets the minimum in-state spend of \$15,000.

*Sound Recording*—a recording of music, poetry, or spoken-word performance made in Louisiana, in whole or in part. The term *sound recording* shall not include the audio portions of dialogue or words spoken and recorded as part of a motion picture, video, theatrical production, television news coverage, and athletic events.

*Sound Recording Production Company*—a company engaged in the business of producing sound recordings as defined in this Section. *Sound recording production company* shall not mean or include any person or company, or any company owned, affiliated, or controlled, in whole or in part, by any company or person, which is in default on a loan made by the state or a loan guaranteed by the state, nor which has ever declared bankruptcy under which an obligation of the company or person to pay or repay public funds or monies was discharged as a part of such bankruptcy.

*State-Certified Musical Recording Infrastructure Project*—a musical recording capital infrastructure project and costs related to such project that are approved by the Louisiana Department of Economic Development.

*State-Certified Production*—a sound recording production or a series of productions occurring over the course of a 12-month period, and costs related to such production or productions that are approved by the Louisiana Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

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

#### **§1635. Rules of Application**

A. The sound recording investor tax credit authorized by R.S. 47:6023(C) may be earned and claimed as follows.

1. Until January 1, 2010, a taxpayer may claim a credit against the state income tax for investments made in state-certified productions and state-certified musical recording infrastructure projects, which credit will be earned by investors at the time expenditures are certified by the Louisiana Department of Economic Development according to the total base investment certified for the sound recording production company per calendar year. No credit shall be allowed for any expenditures for which a credit was granted under R.S. 47:6007. No sound recording production company shall earn a sound recording investor tax credit in more than three years out of any five year period.

2. An application for initial certification of a project shall be submitted to the Louisiana Department of Economic Development prior to the granting of the credit, and the granting of the credits under this rule shall be on a first-come, first-served basis. The Secretary of the Department of Economic development shall determine annually the annual aggregate maximum. If the total amount of credits earned for any particular year exceeds the aggregate amount of tax credits allowed for that year, the excess will be treated as having been earned on the first day of the subsequent year.

3. Individuals or entities may earn sound recording investor tax credits pursuant to R.S. 47:6023(C).

4. Any individual or entity shall be allowed to claim the sound recording investor tax credit authorized by R.S. 47:6023(C) 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.

5. The credit shall be allowed against the individual or corporate income tax for the taxable period in which the credit is earned. Any excess of the credit over the income tax

liability against which the credit can be applied shall constitute an overpayment, as defined by R.S. 47:1621(A), and the secretary of the Department of Revenue shall make a refund of such overpayment from the current collections of the taxes imposed by Chapter 1 of Subtitle II of Title 47, as amended. The right to a refund of any such overpayment shall not be subject to the requirements of R.S. 47:1621(B).

6. Individuals, estates, and trusts shall claim any credit allowed under this Section on their income tax return. Entities not taxed as corporations shall claim any credit allowed under this Section on the returns of the partners or members. Corporate partners or members shall claim their share of the credit on their corporation income tax returns. Individual partners or members shall claim their share of the credit on their individual income tax returns. Partners or members that are estates or trusts shall claim their share of the credit on their fiduciary income tax returns.

7. Any taxpayer applying for the credit shall be required to reimburse the department for any audits required in relation to granting the credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

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

#### **§1637. Certification**

A. Initial Certification of State-Certified Productions

1. To obtain the approval of the department for a "state-certified production" as required by R.S. 47:6023(B)(5) and (6), the sound recording production company that will produce the sound recording production must submit a written request to the department requesting approval of the production as a "state-certified musical recording infrastructure project" or as a "state-certified production" and setting forth the following facts, when applicable:

a. working title of the sound recording production for which approval is requested;

b. name of the requesting production company;

c. telephone number of requesting production company;

d. name and telephone number of the requesting production company's contact person;

e. approximate beginning and ending date of production in Louisiana;

f. Louisiana office address of requesting production company (if available);

g. telephone number of requesting production company's Louisiana office address (if available);

h. estimated total production-related costs of the sound recording production for which approval is requested;

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

j. 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;

k. 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;

1. facts sufficient to determine each of the following:

i. that the requesting production company is a sound recording production company as defined by R.S. 47:6023(B)(4);

m. for "state-certified productions" the application shall also include:

i. the distribution plan;

ii. a preliminary budget including estimated Louisiana payroll and estimated base investment;

iii. a description of the type of sound to be recorded;

iv. a list of the principal creative elements including performing artist(s) and producer;

v. the name and address of the recording studio or other location where the recording production will take place;

vi. a statement that the production will qualify as a state-certified production; and

vii. estimated start and completion dates;

n. for "state-certified musical recording infrastructure projects" the application shall also include:

i. a detailed description of the infrastructure project;

ii. a preliminary budget;

iii. a statement that the project meets the definition of a state-certified infrastructure project; and

iv. estimated start and completion dates;

v. a business plan for start up sound recording infrastructure.

2. The department shall submit its initial certification of a project as an "initial state-certified production" or an "initial state-certified musical recording infrastructure project" to investors and to the Secretary of the Department of Revenue, containing a unique identifying number. The department shall issue their written approval of a project as a "state-certified musical recording infrastructure project" or of a sound recording production as a "state-certified production" within 90 business days after receiving a request with respect to such production that complies with Paragraph 1 of this Section. In the alternative, if the department determines that a request for approval of a project as a "state-certified musical recording infrastructure project" or of a sound recording production as an "initial state-certified production" received from a production company is not in compliance with Paragraph 1 of this Section, then within 45 business days after receiving such request, the department shall request in writing from the requesting production company any information necessary in their determination for such request to comply with Paragraph 1 of this Section. Upon receiving all of the requested additional information in writing from the production company, and if the department determine that the request for approval with respect to such project or production complies with Paragraph 1 of this Section, the department shall issue to the requesting production company their written approval of the project as a "state-certified musical recording infrastructure project" or of a sound recording production as a "state-certified production."

3. The approval of a project as an "initial state-certified musical recording infrastructure project" or of a

sound recording production as an "initial state-certified production" issued by the department pursuant to the above Paragraph 2 of this Section shall read in its entirety as follows, and as appropriate.

a. For initial state-certified musical recording infrastructure projects:

"Based solely on our examination of the factual representations set forth in your request for state certification of ["Name of Project"] dated [Date of Request] attached hereto as Exhibit A, the Department of Economic Development does hereby certify that ["Name of the Project"] qualifies as of [Date] as a initial state-certified musical recording infrastructure project as such term is defined in Louisiana Revised Statutes 47:6023 B(6).

["Identifying Number"] is hereby assigned to ["Name of Project"] and such number shall constitute such project's identifying number as contemplated by R.S. 47: 6023 E(2)(c)."

b. For initial state-certified sound recording productions:

"Based solely on our examination of the factual representations set forth in your request for state certification of ["Name of Production"] dated [Date of Request] attached hereto as Exhibit A, the undersigned does hereby certify that ["Name of the Production"] qualifies as of [Date] as a initial sound recording state-certified production as such term is defined in Louisiana Revised Statutes 47:6023 B(5).

["Identifying Number"] is hereby assigned to ["Name of Production"] and such number shall constitute such production's identifying number as contemplated by R.S. 47: 6023 E(2)(c)."

B. Any funds expended prior to the date of notification of intent to apply for initial credit shall not qualify as part of the base investment and will not be certified for tax credits except for those funds expended by projects that applied after July 12, 2005 and before final approval of these rules. Notification of intent to apply must be in writing to the department.

C. Certification of Sound Recording Investor Tax Credits

1. Prior to any certification of the state-certified production or infrastructure project, the sound recording production company, in the case of an infrastructure project, shall submit to the department a cost report of production or project expenditures to be prepared and audited by an independent Louisiana certified public accountant. The department shall review such expenditures and shall issue a tax credit certification letter to the investors indicating the amount of tax credits certified for the state-certified production or state-certified infrastructure project. The following procedures set forth minimum standards for acceptability of the audit to be performed. The auditor is to make its certification on the basis of having performed, at a minimum, these procedures.

a. The auditor must be a Certified Public Accountant licensed in the state of Louisiana and must be an independent third party, not related to the producer.

b. The auditor's opinion must be addressed to the party which has engaged the auditor (e.g., directors of the production company, 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 the completion of the audit fieldwork.

e. The audit must be performed in accordance with auditing standards generally accepted in the United States of America and the auditor must have sufficient knowledge of accounting principles and practices generally recognized in the music and sound recording industry.

2. Within 30 business days after receiving a written request from an investor and after the meeting of all criteria, the department shall issue a letter of certification to such investor signed by the secretary reflecting the investor's name, the dollar amount of sound recording investor tax credits earned by the investor pursuant to R.S. 47:6023 C through the date of such request, the calendar year in which the sound recording investor tax credits were earned by the investor, the state-certified musical recording infrastructure project or the state-certified production with respect to which the investor earned the sound recording investor tax credits, and the identifying number assigned to such state-certified musical recording infrastructure project or state-certified production.

3. Any taxpayer claiming sound recording investor tax credits against its Louisiana income tax liability shall submit to the Louisiana Department of Revenue within 60 calendar days after filing its Louisiana tax return for the year in which the taxpayer is claiming the sound recording investor tax credits a letter of certification issued by the department pursuant to this rule evidencing the dollar amount of the sound recording investor tax credits being claimed. Within 45 business days after receipt of such request, the department shall issue the letter of certification signed by the secretary reflecting, in addition to the amount of sound recording investor tax credits, the taxpayer's name, the calendar year in which the sound recording investor tax credits were originally earned by an investor pursuant to R.S. 47:6023(C), the state-certified production or state-certified musical recording infrastructure project with respect to which such investor earned the sound recording investor tax credits, and the identifying number assigned to such state-certified production or state-certified musical recording infrastructure project. The taxpayer shall then submit to the Louisiana Department of Revenue within 60 calendar days after the filing its Louisiana tax return the letter of certification evidencing the dollar amount of the sound recording investor tax credits being claimed. The tax credits when issued and upon receipt shall not be transferred to any third party and will be held valid only to the party which was certified by the Department of Economic Development.

4. Once certification of a project has been granted under the criteria established within this provision and pursuant to 47:6023, the granting of such credit will be based upon a first come, first serve basis and shall be set for a maximum aggregate amount not to exceed \$3 million. For purposes of this Section the applicant will be considered the investor

5. If the total amount of qualifying credits in any particular year exceeds the aggregate amount of tax credits allowed for that year the excess credits will be treated as having been certified for the first day of the subsequent year.

6. The failure of the department to issue a letter of certification in accordance with this Subpart shall not:

a. void or otherwise affect, in any way, the legality or validity of any allocation of sound recording investor tax credits;

b. prohibit any Louisiana taxpayer from claiming sound recording investor tax credits against its Louisiana income tax liability if the sound recording investor tax credits are otherwise allocated or claimed in accordance with R.S. 47:6023(C) and this Subpart; or

c. result in any recapture, forfeiture or other disallowance of sound recording investor tax credits under R.S. 47:6023(G) or otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

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

### **§1639. Credits**

#### **A. Application of the Sound Recording Investor Tax Credits**

1. Any individual or entity claiming sound recording investor tax credits may apply such sound recording investor tax credits to offset tax liabilities that:

a. accrued during a taxable year of such individual or entity, provided the sound recording investor tax credits were originally earned by an investor during that same taxable year; and

b. accrued during a taxable year of such individual or entity that is within the period for which the sound recording investor tax credits could have otherwise been carried forward by the investor originally earning such sound recording investor tax credits.

2. Any individual or entity claiming sound recording investor tax credits may not apply such sound recording investor tax credits to offset tax liabilities that accrued during a taxable year prior to the taxable year in which the sound recording investor tax credits were originally earned by an investor.

3. Any individual or entity claiming sound recording investor tax credits may claim such sound recording investor tax credits prior to other equally applicable, refundable Louisiana tax credits, and receive a refund of the refundable tax credits that such individual or entity is thereby unable to use.

4. The sound recording investor tax credit cannot be used to offset penalties and interest on any overdue taxes because although penalties and interest can be collected and accounted for in the same manner as if they were part of the tax in certain circumstances, they are not tax.

#### **B. Recapture of Credits**

1. If the Department of Economic Development and the Department of Revenue find that funds for which an investor received credits according to this program are not invested in and expended with respect to a state-certified production within 24 months of the date that such credits are earned, then the investor's state income tax for such taxable period shall be increased by such amount necessary for the recapture of credit provided by this program.

2. Credits previously granted to a taxpayer, but later disallowed, may be recovered by the secretary of the Department of Revenue through any collection remedy

authorized by R.S. 47:1561 and initiated within three years from December 31 of the year in which the 24 month investment period specified in the above Paragraph ends.

3. The only interest that may be assessed and collected on recovered credits is interest at a rate three percentage points above the rate provided in Civil Code Article 2924(B)(1), which shall be computed from the original date of the return on which the credit was taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

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

#### **Family Impact Statement**

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

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

Interested persons should submit written comments on the proposed Rules to Lynn Ourso through the close of business on October 25, 2007, at P.O. Box 94185, Baton Rouge, LA 70804-9185 or 1051 North Third Street, Baton Rouge, LA 70802. Comments may also be submitted by email to ourso@la.gov or by fax to 225-342-5554. A meeting for the purpose of receiving the presentation of oral comments will be held on October 26, 2007, at the Department of Economic Development, 1301 N. Third St., Baton Rouge, LA.

Sherri McConnell  
Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Sound Recording Production and Infrastructure Tax Credit Programs**

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

The proposed rules will impose little initial implementation costs on state government agencies and no costs to local governmental units. The Department of Economic Development has just adequate resources to monitor and administer the Sound Investor Recording Tax Credit program in its early stages but will require additional staffing as the program gathers momentum. The Department of Revenue may experience some increase in costs associated with administering these tax credits but will currently do so within existing budgetary and staffing resources. As the number of participants and projects involved in the program grows, additional resources will likely be needed by these agencies to adequately and timely administer and enforce the program.

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

Prior law authorized tax credits for state-certified sound recording productions and infrastructure projects based on the following schedule: 10 percent for \$15,000 through \$150,000 of investment, 15 percent for \$150,000 through \$1 million, or 20 percent for more than \$1 million of investment. Act 368 (SB 70) of the 2007 Regular Legislative Session and these proposed rules retain the current credit rates for any projects certified prior to July 1, 2007, but increase the credit rate to 25 percent for any project over \$15,000 of investment that is certified after July 1, 2007. Act 368 also added two additional years for the issuance of program credits, allowing such credits until January 1, 2010.

The Department of Economic Development reports that 7 applications have been received for these tax credits so far (5 for production projects and 2 for infrastructure projects). These projects report over \$1.5 million of investment and over \$382,000 of tax credits under the provisions of the program after the passage of Act 368. The Department of Economic Development anticipates substantial growth in program participation, with the program possibly doubling the number of projects each year for the next few years. However, under current law, the program is limited to a maximum issuance of \$3 million of tax credits per year through January 1, 2010.

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

Individuals and businesses involved in participating sound recording projects will receive refundable tax credits to offset portions of infrastructure and production costs for such projects. Consequently their business costs are reduced and profitability is enhanced. Individuals and businesses receiving tax credits will benefit from lower state tax liabilities.

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

The proposed tax credits will likely generate additional investments in sound recording projects. Expenditures on infrastructure projects will generate construction jobs, and expenditures on production projects will generate employment opportunities for individuals in the sound recording industry.

Sherri McConnell  
Director  
0709#078

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Education Board of Elementary and Secondary Education**

Bulletin 118—Statewide Assessment Standards  
and Practices  
(LAC 28:CXI.303, 305, 312, 315, 701, 1351, and 1355)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 118—Statewide Assessment Standards and Practices*: Chapter 3, Test Security; Chapter 7, Assessment Program Overview; and Chapter 13, Graduation Exit Examination. The proposed Rule makes changes to several Sections of Chapter 3, language is removed from §305 that references supplemental materials in the test security policy, new language regarding

"administrative errors" that can and do occur during the administration of statewide assessments in §312 is added, an inclusion of the new online assessment data system, Enhanced Assessment of Grade Level Expectations (EAGLE) is added to the policy along with the rules and guidelines for its correct use among educational personnel statewide, and language is updated about emergencies during testing in §315. Chapter 7, §701 chart is updated with the names of new implemented statewide assessments and Chapter 13, §1351 restructures the policy for clearer understanding of "transfer rules" for students' placement in grades as well as adds to the policy Chapter 13, §1355.A.8 for students who enroll in Louisiana schools and transfer multiple times during grades 7, 8, 9, 10, and 11. The proposed Rule change will have no implementation cost to state or local governmental units.

**Title 28**  
**EDUCATION**

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

**Chapter 3. Test Security**

**§303. Definitions**

*Access*—access to secure test materials means physically handling the materials, not reading, reviewing, or analyzing test items, either before or after testing.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81.6 et seq., R.S. 416 et seq., and R.S. 441 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended by the Office of Student and School Performance, LR 33:

**§305. Test Security Policy**

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

d. at any time, copy, reproduce, record, store electronically, discuss or use in a manner inconsistent with test regulations all or part of any secure test booklet, answer document, or supplementary secure materials;

e. - g. ...

h. fail to follow security regulations for distribution and return of secure test booklets, answer documents, supplementary secure materials as well as overages as directed; or fail to account for and secure test materials before, during, or after testing;

3.i. - 4. ...

a. for the security of the test materials during testing, including test booklets, answer documents, supplementary secure materials, videotapes, and completed observation sheets;

b. - f. ...

g. procedures for the investigation of any missing test booklets, answer documents, or supplementary secure material;

4.h. - 7. ...

8. Test materials, including all test booklets, answer documents, and supplementary secure materials containing secure test questions, shall be kept secure and accounted for in accordance with the procedures specified in the test administration manuals and other communications provided by the LDE. Secure test materials include test booklets, answer documents, and any supplementary secure materials.

9. Procedures described in the test manuals shall include, but are not limited to, the following.

a. All test booklets, answer documents, and supplementary secure materials must be kept in a designated locked secure storage area prior to and after administration of any test.

i. ...

b. All test booklets, answer documents, and supplementary secure materials must be accounted for and written documentation kept by test administrators and proctors for each point at which test materials are distributed and returned.

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

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

9.e. - 10.f. ...

11. In cases in which test results are not accepted because of a breach of test security or action by the LDE, any programmatic, evaluative, or graduation criteria dependent upon the data shall be deemed not to have been met.

12. Individuals shall adhere to all procedures specified in all manuals that govern mandated testing programs.

13. - 14.a. ...

i. LEAP<sup>data</sup> Query System. Principals should contact their DTC or Backup DTC for assistance in training teachers. After teaching, all school users (e.g., teachers, counselors, test coordinators) must read and sign the security agreement and return it to the principal. A new security agreement should be signed by all users each year after the new password letters for schools and districts are automatically generated in August. If a breach in security occurs, principals should immediately contact the DTC or the backup DTC for a replacement password. Principals should always contact their DTC or backup DTC for assistance and training.

b. ...

i. LEAP<sup>web</sup> Reporting System. At the school level, only principals (not teachers) and their designated school personnel (test coordinators, counselors, or office staff with whom the principal shares his/her PIN) should have access to the system and must sign a security agreement. A new security agreement should be signed by all users each year after the new password letters for schools and districts are automatically generated in August. If a breach in security occurs, principals should immediately contact the DTC or the backup DTC for a replacement

password. Principals should always contact their DTC or Backup DTC for assistance and training.

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

c. The Louisiana Department of Education's Enhanced Assessment of Grade Level Expectations (EAGLE) System contains students' private information, including test scores and state identification numbers. This system is password protected and requires a user ID and an assigned password for access. Any student information from the system must not be disclosed to anyone other than a state, district, or school official, or parent/guardian as defined by The Family Educational Rights and Privacy Act of 1974 (FERPA). For more information on FERPA, see the U.S. Department of Education Web page at <http://www.ed.gov/offices/OM/fpc/ferpa/>. A state, district, or school official is a person employed by the state, district, or school as an administrator, supervisor, district test coordinator, school test coordinator, principal, teacher, or support staff member. This user has a legitimate educational purpose to review an educational record in order to fulfill his or her professional responsibility. Curiosity does not qualify as a right to know. All users who are granted a password to this system must abide by FERPA law. Disclosure of passwords to anyone other than those authorized is prohibited.

i. EAGLE System. Principals should contact their district designee, DTC, Backup DTC, or district curriculum supervisor for assistance in training teachers. After teaching, all users (e.g., teachers, counselors, test coordinators) must read and sign the security agreement and return it to the principal. A new security agreement should be signed by all users each year after the new password letters for schools and districts are automatically generated in August. Keep copies signed by all school users on file at the school. If a breach in security occurs, principals should immediately contact the district designee, district test coordinator, or backup district designee for a replacement password. Principals should always contact their district designee, DTC, backup DTC, or district curriculum supervisor for assistance and training.

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

15. - 17. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007), LR 33:424 (March 2007), amended by the Office of Student and School Performance, LR 33:

**§312. Administrative Error**

A. Administrative errors that result in questions regarding the security of the test or the accuracy of the test data are considered testing irregularities. If it is deemed necessary to void the test, the district test coordinator must fax a completed void form to the LDE, Division of Standards, Assessments, and Accountability, as directed in the *District and School Test Coordinators Manual*. The

original Void Verification from, along with a copy of the account of the incident, must also be mailed to the LDE, Division of Standards, Assessments, and Accountability, as directed in the manual.

B. If tests are voided by the district due to administrative error, the LEA superintendent, on behalf of individual students, may initiate a request to the state superintendent of education for an opportunity to retest prior to the next scheduled test administration on behalf of individual students.

C. If administrative errors result in a question of the accuracy of the test data but do not require the voiding of the tests, the LEA superintendent or the parent, or legal guardian of an affected student may initiate a request for an opportunity to retest prior to the next scheduled test administration. The LEA superintendent or parent must provide the state superintendent of education with school-and student-level documentation describing the administrative error.

D. If the LDE determines that an administrative error did occur that allows for a retest, it will notify the LEA of the determination and arrangements for the retest. The LEA must provide a corrective plan of action.

E. To offset costs involved in retesting, the vendor will assess the LEA a fee for each test.

F. The LDE will provide a report to the SBESE of retests due to administrative errors.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 32:390 (March 2006), amended LR 33:257 (February 2007), amended by the Office of Student and School Performance, LR 33:

**§315. Emergencies during Testing**

A. - A.4. ...

5. If the test booklets have been opened and test security has been compromised, testing should not be continued. The answer documents should be sent to the testing company with the responses that were completed prior to the emergency.

6. - 7. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1532 (July 2005), amended LR 32:234 (February 2006), LR 33:258 (February 2007), amended by the Office of Student and School Performance, LR 33:

**Chapter 7. Assessment Program Overview**

**§701. Overview of Assessment Programs in Louisiana**

A. ...

Name of Assessment Program	Assessment Population	Administered
<b>Kindergarten Screening</b>		
Kindergarten Developmental Readiness Screening Program (KDRSP)	Kindergarten	Fall 1987–
<b>Norm-Referenced Tests (NRTs)</b>		
California Achievement Test (CAT/F)	Grades 4, 6, and 9	Spring 1988– Spring 1992 (no longer administered)

Name of Assessment Program	Assessment Population	Administered
California Achievement Test (CAT/5)	Grades 4 and 6 Grade 8	Spring 1993– Spring 1997 Spring 1997 only (no longer administered)
Iowa Tests of Basic Skills (ITBS) (form L) and Iowa Tests of Educational Development (ITED) (form M)	Grades 4, 6, 8, 9, 10, and 11	Spring 1998 (no longer administered)
ITBS ITED (form M)	Grades 3, 5, 6, and 7 Grade 9	Spring 1999– Spring 2002 (no longer administered)
ITBS ITED (form B)	Grades 3, 5, 6, and 7 Grade 9	Spring 2003– Spring 2005 (no longer administered)
<b>Criterion-Referenced Tests (CRTs)</b>		
National Assessment of Educational Progress (NAEP)	Grades 4, 8, and 12	Spring 1990–
Louisiana Educational Assessment Program (LEAP)	Grades 3, 5, and 7	Spring 1989– Spring 1998 (no longer administered)
Graduation Exit Examination ("old" GEE)	Grades 10 and 11	Spring 1989– Spring 2003 (state administered) Fall 2003– (district administered)
Louisiana Educational Assessment Program (LEAP) (ELA and Mathematics)	Grades 4 and 8	Spring 1999–
LEAP (Science and Social Studies)	Grades 4 and 8	Spring 2000–
Graduation Exit Examination (GEE) (ELA and Mathematics)	Grade 10	Spring 2001–
GEE (Science and Social Studies)	Grade 11	Spring 2002–
End-Of-Course Tests (EOCT)	Algebra I	Fall 2007
EOCT	Algebra I	Spring 2008
<b>Integrated NRT/CRT</b>		
Integrated Louisiana Educational Assessment Program (iLEAP)	Grades 3, 5, 6, 7, and 9	Spring 2006–
<b>Special Population Assessments</b>		
Louisiana Alternate Assessment, Level 1 (LAA 1)	Students with Individualized Education Programs (IEPs) who meet participation criteria in grades 3–11.	Spring 2000–
LAA 1 Louisiana Alternate Assessment, Level 2 (LAA 2) ELA and Mathematics (Grades 4, 8, and 10) Science and Social Studies (Grade 11)	Grades 4, 8, 10, and 11	Revised Spring 2008 Spring 2006–
LAA 2 ELA and Mathematics	Grades 5, 6, 7, and 9	Spring 2007–

Name of Assessment Program	Assessment Population	Administered
LAA 2 Science and Social Studies	Grades 4 and 8	Spring 2008
Louisiana Alternate Assessment-B (LAA-B) ["out-of-level" test]	Students with Individualized Education Programs (IEPs) who met eligibility criteria in grades 3–11.	Spring 1999– Spring 2003 (no longer administered)
English Language Development Assessment (ELDA)	Limited English Proficient (LEP) students in grades K–12	Spring 2005–

B. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1534 (July 2005), amended LR 32:235 (February 2006), amended by the Office of Student and School Performance, LR 33:

**Chapter 13. Graduation Exit Examination**  
**Subchapter D. GEE Assessment Structure**  
**§1351. GEE Administration Rules**

A. - I. ...

J. If a district holds "graduation" prior to the release of spring test scores, the LEA must have in place a policy for graduation without the test scores.

K. There is no ending age limit for students to retest in GEE, nor is there a limit on the number of times the student may retake the test. Students who no longer reside in the school district where he/she completed Carnegie units may test in the current school district of residence. The DTC shall forward the passing test scores to the high school where the Carnegie units reside.

L. If a student was issued a GED diploma and subsequently meets the requirements of the GEE, the student may surrender the GED diploma and be issued a standard high school diploma.

M. If students are transferring to a public high school from a nonpublic high school that administers the GEE, the rules for nonpublic transfer students apply.

N. When administrative errors are made in testing, the state superintendent of education may determine how to remedy the error.

O. Seniors who have completed all GEE tests required for a standard high school diploma and who wish to retest for the Louisiana high school diploma endorsements may retest during the fall retest administration. If the student is unable to test during the fall retest administration, the student may retest in the February seniors only retest.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1554 (July 2005), amended LR 32:237 (February 2006), LR 32:391 (March 2006), amended by the Office of Student and School Performance, LR 33:

**§1355. GEE Transfer Students**

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

2. A student who was in initial membership in Louisiana public schools as a student in grades K through 6 shall adhere to the following policy.

a. A student who returns in the seventh and/or eighth grade for a period in membership of 160 days total shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

b. A student who returns in the ninth grade shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

c. A student who returns and is classified as a tenth grade student shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

d. A student who returns and is classified as an eleventh grade student shall take and pass either the Science or the Social Studies test of the GEE.

e. A student who returns and is classified as a twelfth grade student shall not be required to take any part of the GEE.

3. A student who was in initial membership in Louisiana public schools in the seventh and/or eighth grade for a period of 160 days total, transferred out, and subsequently returned at any grade level shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

4. A student who was in initial membership in Louisiana public schools as a ninth grade student, transferred out, and subsequently returned at any grade level shall be required to take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

5. A student who was in initial membership in Louisiana public schools as a tenth grade student, transferred out, and subsequently returned at any grade level shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

6. A student who was in initial membership in Louisiana public schools as an eleventh grade student, transferred out, and subsequently returned at the eleventh- or twelfth-grade level shall take and pass either the Science or the Social Studies test of the GEE.

7. A student who was in initial membership in Louisiana public schools as a twelfth grade student, transferred out, and subsequently returned as a twelfth grader shall not be required to take any part of the GEE.

8. All membership in grades 7 through 11 must be considered when determining which test to administer to a student.

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1555 (July 2005), amended LR 32:238 (February 2006), amended by the Office of Student and School Performance, 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., November 9, 2007, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

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

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

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

The proposed rule makes changes to several sections of Chapter 3: language is removed from §305 that reference supplemental materials in the test security policy, new language regarding "administrative errors" that can and do occur during the administration of statewide assessments in §312 is added, an inclusion of the new online assessment data system, Enhanced Assessment of Grade Level Expectations (EAGLE) is added to the policy along with the rules and guidelines for its correct use among educational personnel statewide, and language is updated about emergencies during testing in §315. Chapter 7, §701 chart is updated with the names of new implemented statewide assessments and Chapter 13, §1351 restructures the policy for clearer understanding of "transfer rules" for students' placement in grades as well as adds to the policy Chapter 13, §1355.A.8 for students who enroll in Louisiana schools and transfer multiple times during grades 7, 8, 9, 10, and 11. The proposed rule change will have no implementation cost to state or local governmental units.

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

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

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

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

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

There should be no impact on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
0709#011

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

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

Extension of Compliance Deadlines for CAFO Permits  
(LAC 33:IX.2501, 2505, and 2703)(WQ073ft)

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 Water Quality regulations, LAC 33:IX.2501, 2505, and 2703 (Log #WQ073ft).

This proposed Rule is identical to federal regulations found in 72 FR 40245-40250, No. 141 (July 24, 2007), 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 implements the July 24, 2007, revision to the Environmental Protection Agency dates established in the 2003 Concentrated Animal Feeding Operations (CAFOs) rule, issued on February 12, 2003, by which facilities newly defined as CAFOs were required to seek permit coverage and by which all CAFOs were required to have nutrient management plans (NMPs) developed and implemented. EPA extended the date by which operations defined as CAFOs as of April 14, 2003, that were not defined as CAFOs prior to that date, must seek National Pollutant Discharge Elimination System (NPDES) permit coverage from July 31, 2007, to February 27, 2009. EPA also amended the date by which operations that become defined as CAFOs after April 14, 2003, due to operational changes that would not have made them a CAFO prior to April 14, 2003, and that are not new sources, must seek NPDES permit coverage from July 31, 2007, to February 27, 2009. Finally, EPA extended the deadline by which CAFOs are required to develop and implement NMPs from July 31, 2007, to February 27, 2009.

Under authority of the Clean Water Act, which restores and maintains the chemical, physical, and biological integrity of the nation's waters, one of the core provisions of the act is to authorize and regulate the discharge of pollutants from point sources to waters of the United States. Section 502(14) of the CWA specifically includes CAFOs in the definition of the term "point source." The Department of Environmental Quality, Office of Environmental Services, became the NPDES permit issuing authority for the state of Louisiana on August 27, 1996. The Rule is necessary in order to comply with federal regulations that require the Louisiana Pollutant Discharge Elimination System (LPDES) program to be consistent with the NPDES program. The basis and rationale for this Rule are to mirror the federal regulations.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report

regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

### Title 33

### ENVIRONMENTAL QUALITY

#### Part IX. Water Quality

#### Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

#### Chapter 25. Permit Application and Special LPDES Program Requirements

#### §2501. Application for a Permit

A. - I.1.i. ...

j. for CAFOs that must seek coverage under a permit after February 27, 2009, certification that a nutrient management plan has been completed and will be implemented upon the date of permit coverage.

I.2. - R.5.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2552 (November 2000), LR 26:2756 (December 2000), LR 27:45 (January 2001), LR 28:465 (March 2002), LR 28:1766 (August 2002), LR 29:1462 (August 2003), repromulgated LR 30:230 (February 2004), amended by the Office of Environmental Assessment, LR 30:2028 (September 2004), LR 31:425 (February 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2509 (October 2005), LR 32:819 (May 2006), LR 33:

#### §2505. Concentrated Animal Feeding Operations

A. - G.1. ...

2. Operations Defined as CAFOs as of April 14, 2003, Which Were Not Defined as CAFOs Prior to That Date. For all such CAFOs, the owner or operator of the CAFO must seek to obtain coverage under an LPDES permit by a date specified by the state administrative authority, but no later than February 27, 2009.

3. - 3.b. ...

c. if an operational change that makes the operation a CAFO would not have made it a CAFO prior to April 14, 2003, the operation has until February 27, 2009, or 90 days after becoming defined as a CAFO, whichever is later.

G.4. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:467 (March 2002), LR 29:1463 (August 2003), repromulgated LR 30:230 (February 2004), amended by the Office of Environmental Assessment, LR 31:1577 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:819 (May 2006), LR 33:

#### Chapter 27. LPDES Permit Conditions

#### §2703. Additional Conditions Applicable to Specified Categories of LPDES Permits

The following conditions, in addition to those set forth in LAC 33:IX.2701, apply to all LPDES permits within the categories specified below.

A. - E. ...

1. Requirements to Develop and Implement a Nutrient Management Plan. At a minimum, a nutrient management plan must include best management practices and procedures necessary to implement applicable effluent limitations and standards. Permitted CAFOs must have their nutrient management plans developed and implemented by February 27, 2009. CAFOs that seek to obtain coverage under a permit after February 27, 2009, must have a nutrient management plan developed and implemented upon the date of permit coverage. The nutrient management plan must, to the extent applicable:

1.a. - 4.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), LR 29:1466 (August 2003), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2512 (October 2005), LR 32:819 (May 2006), LR 33:

A public hearing will be held on October 25, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ073ft. Such comments must be received no later than October 25, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to [judith.schuerman@la.gov](mailto:judith.schuerman@la.gov). The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of WQ073ft. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx)

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

Herman Robinson, CPM  
Executive Counsel

0709#033

## NOTICE OF INTENT

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

National Source Tracking System Reporting Requirements  
and Agreement State Updates  
(LAC 33:XV.493, 602, 2017, and 2051)(RP046ft)

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.493, 602, 2017, and 2051 (Log #RP046ft).

This proposed Rule is identical to federal regulations found in 10 CFR 20.2207, 39.15, and 39.41 and 21 CFR 1020.30, 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 and to mirror federal language. As part of the National Source Tracking System (NSTS), reporting requirements for nationally tracked sources are listed in 10 CFR 20.2207. This Rule adds the federal regulations in 10 CFR 20.2207 to the state radiation regulations. This Rule also makes other updates to meet Agreement State compatibility requirements and corrects a definition to mirror federal language. Requirements regarding compatibility are published under the Agreement State program. These changes are needed to comply with this program. 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 4. Standards for Protection against Radiation

#### Subchapter J. Reports

#### §493. Reports of Transactions Involving Nationally Tracked Sources

A. Each licensee who manufactures, transfers, receives, disassembles, or disposes of a nationally tracked source shall complete and submit a national source tracking transaction report as specified in Subsections B-F of this Section for each type of transaction.

B. Each licensee who manufactures a nationally tracked source shall complete and submit a national source tracking transaction report. The report must include the following information:

1. the name, address, and license number of the reporting licensee;
2. the name of the individual preparing the report;
3. the manufacturer, model, and serial number of the source;
4. the radioactive material in the source;
5. the initial source strength in becquerels (curies) at the time of manufacture; and
6. the manufacture date of the source.

C. Each licensee who transfers a nationally tracked source to another licensee shall complete and submit a national source tracking transaction report. The report must include the following information:

1. the name, address, and license number of the reporting licensee;
2. the name of the individual preparing the report;
3. the name and license number of the recipient licensee and the shipping address;
4. the manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;
5. the radioactive material in the source;
6. the initial or current source strength in becquerels (curies);
7. the date for which the source strength is reported;
8. the shipping date;
9. the estimated arrival date; and
10. for nationally tracked sources transferred as waste under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the identification of the container with the nationally tracked source.

D. Each licensee who receives a nationally tracked source shall complete and submit a national source tracking transaction report. The report must include the following information:

1. the name, address, and license number of the reporting licensee;
2. the name of the individual preparing the report;
3. the name, address, and license number of the licensee who provided the source;
4. the manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;
5. the radioactive material in the source;
6. the initial or current source strength in becquerels (curies);
7. the date for which the source strength is reported;
8. the date of receipt; and
9. for material received under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the identification of the container with the nationally tracked source.

E. Each licensee who disassembles a nationally tracked source shall complete and submit a national source tracking transaction report. The report must include the following information:

1. the name, address, and license number of the reporting licensee;

2. the name of the individual preparing the report;
3. the manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;
4. the radioactive material in the source;
5. the initial or current source strength in becquerels (curies);
6. the date for which the source strength is reported; and
7. the disassembly date of the source.

F. Each licensee who disposes of a nationally tracked source shall complete and submit a national source tracking transaction report. The report must include the following information:

1. the name, address, and license number of the reporting licensee;
2. the name of the individual preparing the report;
3. the waste manifest number;
4. the identification of the container with the nationally tracked source;
5. the date of disposal; and
6. the method of disposal.

G. The reports specified in Subsections B-F of this Section shall be submitted by the close of the next business day after the transaction. A single report may be submitted for multiple sources and transactions. The reports shall be submitted to the national source tracking system:

1. using the on-line national source tracking system;
2. electronically, using a computer-readable format;
3. by facsimile;
4. by mail, to the address on the National Source Tracking Transaction Report Form (NRC Form 748); or
5. by telephone, with follow-up by facsimile or mail.

H. Each licensee shall correct any error in previously filed reports or file a new report for any missed transaction within five business days of the discovery of the error or missed transaction. Such errors may be detected by a variety of methods, such as administrative reviews or physical inventories required by regulation. In addition, each licensee shall reconcile the inventory of nationally tracked sources possessed by the licensee against that licensee's data in the national source tracking system. The reconciliation must be conducted during the month of January in each year. The reconciliation process must include resolving any discrepancies between the national source tracking system and the actual inventory by filing the applicable reports specified in Subsections B-F of this Section. By January 31 of each year, each licensee must submit to the national source tracking system confirmation that the data in the national source tracking system is correct.

I. Each licensee who possesses Category 1 nationally tracked sources shall report the initial inventory of the licensee's Category 1 nationally tracked sources to the national source tracking system by November 15, 2007. Each licensee who possesses Category 2 nationally tracked sources shall report the initial inventory of the licensee's Category 2 nationally tracked sources to the national source tracking system by November 30, 2007. The information may be submitted by using any of the methods specified in Paragraphs G.1-4 of this Section. The initial inventory report must include the following information:

1. the name, address, and license number of the reporting licensee;
2. the name of the individual preparing the report;
3. the manufacturer, model, and serial number of each nationally tracked source or, if not available, other information to uniquely identify the source;
4. the radioactive material in the sealed source;
5. the initial or current source strength in becquerels (curies); and
6. the date for which the source strength is reported.

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

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

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

### **§602. Definitions**

As used in this Chapter, the following definitions apply. Other definitions applicable to this Chapter may be found in LAC 33:XV.Chapters 1 and 2.

\* \* \*

*Half-Value Layer*—the thickness of specified material that attenuates the beam of radiation to an extent that the exposure rate is reduced by one half. In this definition, the contribution of all scattered radiation, other than any that might be present initially in the beam concerned, is deemed to be excluded.

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 23:1139 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2585 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

## **Chapter 20. Radiation Safety Requirements for Wireline Service Operations and Subsurface Tracer Studies**

### **§2017. Design, Performance, and Certification Criteria for Sealed Sources Used in Downhole and Well-Logging Operations**

A. Sealed Source Used in Downhole and Well-Logging Applications

1. A licensee may use a sealed source in downhole and well-logging applications if the sealed source:
  - a. is doubly encapsulated;
  - b. contains licensed material whose chemical and physical forms are as insoluble and nondispersible as practical; and
  - c. meets one of the following requirements:
    - i. for a sealed source manufactured on or before July 14, 1989, the requirements of USASI N5.10-1968, "Classification of Sealed Radioactive Sources," or the requirements in Clause A.1.c.ii or iii of this Section; or
    - ii. for a sealed source manufactured after July 14, 1989, the oil well-logging requirements of ANSI/HPS N43.6-1997, "Sealed Radioactive Sources—Classification"; or
    - iii. for a sealed source manufactured after July 14, 1989, the sealed source's prototype has been tested and

found to maintain its integrity after each of the following tests:

- (a). Temperature Test. The test source must be held at -40°C for 20 minutes, 600°C for 1 hour, and then be subjected to a thermal shock test with a temperature drop from 600°C to 20°C within 15 seconds;
- (b). Impact Test. A 5 kg steel hammer, 2.5 cm in diameter, must be dropped from a height of 1 m onto the test source;
- (c). Vibration Test. The test source must be subjected to a vibration from 25 Hz to 500 Hz at 5 g amplitude for 30 minutes;
- (d). Puncture Test. A 1 gram hammer and pin, 0.3 cm pin diameter, must be dropped from a height of 1 m onto the test source;
- (e). Pressure Test. The test source must be subjected to an external pressure of  $1.695 \times 10^7$  pascals (24,600 pounds per square inch absolute).

2. The requirements in Subparagraphs A.1.a-c of this Section do not apply to sealed sources that contain licensed material in gaseous form.

3. The requirements in Subparagraphs A.1.a-c of this Section do not apply to energy compensation sources (ECS). ECSs must be registered with the U.S. Nuclear Regulatory Commission, an agreement state, or the Office of Environmental Compliance.

B. For sealed sources, except those containing radioactive material in gaseous form, acquired after July 14, 1989, in the absence of a certificate from a transferor certifying that an individual sealed source meets the requirements of LAC 33:XV.2017.A, the sealed source shall not be put into use until such determinations and testing have been performed.

C. Each sealed source, except those containing radioactive material in gaseous form, used in downhole operations after July 14, 1989, shall be certified by the manufacturer, or other testing organization acceptable to the Office of Environmental Compliance, as meeting the sealed source performance requirements for oil well-logging as contained in the American National Standard N542, "Sealed Radioactive Sources, Classification," in effect on October 20, 1987.

D. ...

E. Energy Compensation Source. The licensee may use an energy compensation source (ECS) that is contained within a logging tool, or other tool components, only if the ECS contains quantities of licensed material not exceeding 3.7 MBq (100 microcuries).

1. For well-logging applications with a surface casing for protecting fresh water aquifers, use of the ECS is only subject to the requirements of LAC 33:XV.2014, 2015, and 2016.

2. For well-logging applications without a surface casing for protecting fresh water aquifers, use of the ECS is only subject to the requirements of Subsection G of this Section and LAC 33:XV.2004, 2014, 2015, 2016, and 2051.

F. Tritium Neutron Generator Target Source

1. Use of a tritium neutron generator target source, containing quantities not exceeding 1,110 MBq (30 curies) and in a well with a surface casing to protect fresh water aquifers, is subject to the requirements of these regulations

except Subsections A and E of this Section and LAC 33:XV.2051.

2. Use of a tritium neutron generator target source, containing quantities exceeding 1,110 MBq (30 curies) or in a well without a surface casing to protect fresh water aquifers, is subject to the requirements of these regulations except Subsections A and E of this Section.

G. Use of a Sealed Source in a Well without a Surface Casing. The licensee may use a sealed source in a well without a surface casing for protecting fresh water aquifers only if the licensee follows a procedure for reducing the probability of the source becoming lodged in the well. The procedure must be approved by the Office of Environmental Compliance.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2605 (November 2000), LR 29:1472 (August 2003), amended by the Office of Environmental Assessment, LR 31:55 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2538 (October 2005), LR 33:

#### **Subchapter D. Notification**

#### **§2051. Notification of Incidents, Abandonment, and**

##### **Lost Sources**

A. - D.2.c. ...

d. the name of the well owner or well operator, as appropriate;

e. the well name and well identification number(s) or other designation;

f. the sealed source(s) by radionuclide and quantity of activity;

g. the source depth and the depth to the top of the plug; and

h. an appropriate warning, depending on the specific circumstances of each abandonment. Appropriate warnings may include "DO NOT DRILL BELOW PLUG BACK DEPTH"; "DO NOT ENLARGE CASING"; or "DO NOT RE-ENTER THE HOLE", followed by the words, "BEFORE CONTACTING THE OFFICE OF ENVIRONMENTAL COMPLIANCE, LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY".

E. ...

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 21:555 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2606 (November 2000), LR 29:1473 (August 2003), LR 30:1679 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on October 25, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North 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 RP046ft. Such comments must be received no later than October 25, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to [judith.schuerman@la.gov](mailto:judith.schuerman@la.gov). The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP046ft. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx)

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North 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

0709#035

#### **NOTICE OF INTENT**

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

Toxic Air Pollutant Ambient Air Standards  
(LAC 33:III.5112)(AQ281)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.5112 (Log #AQ281).

This Rule revises certain ambient air standards (AAS) for toxic air pollutants (TAPs) in LAC 33:III.5112. Compliance with the AAS is intended to reduce the general population's risk of exposure to toxic air pollutants. The latest health/risk and exposure data for approximately 200 toxic air pollutant AAS were reviewed. Based upon the review, the tables in LAC 33:III.5112 have been revised to: retain methyl ethyl ketone (MEK) as a state TAP on the supplemental list of TAPs; establish more stringent AAS for 15 TAPs; establish less stringent AAS for 6 TAPs; reclassify the air toxics class for 7 TAPs; and for the first time list a short term (8-hour) average in addition to a long term (annual) average for many Class I toxic air pollutants. In accordance with LAC 33:III.5109, the administrative authority is required to periodically review and update the AAS for toxic air pollutants found in LAC 33:III.5112, Table 51.2. The basis

and rationale for this Rule are to ensure that the AAS are reviewed and revised, as appropriate, based on the most recent health and risk information. Pursuant to the family impact requirements in R.S. 49:972, it is determined that this rule should have a positive effect on family earnings and budget by the decrease in spending for medical treatment due to healthier air in the environment.

The department has submitted a report to the Legislative Fiscal Office and the Joint Legislative Committee on the Budget demonstrating that the environmental and public health benefits outweigh the social and economic costs reasonably expected to result from the proposed Rule. This report is published in the Potpourri section of this issue of the *Louisiana Register*.

**Title 33  
ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program**

**Subchapter A. Applicability, Definitions, and General Provisions**

**§5112. Tables—51.1, 51.2, 51.3**

<b>Table 51.1 Minimum Emission Rates Toxic Air Pollutants Class I. Known and Probable Human Carcinogens</b>			
<b>Compounds</b>	<b>CAS Number</b>	<b>Synonyms</b>	<b>Minimum Emission Rate (Pounds/year)</b>
Acrylamide	79-06-1	Acrylic amide	25.0
***			
[See prior text in Acrylonitrile – Benzene]			
Beryllium (and compounds) [1]	7440-41-7	Glucinum	25.0
1,3-Butadiene	106-99-0	Biethylene	97.5
Cadmium (and compounds) [1]	7440-43-9		25.0
***			
[See prior text in Chromium VI (and compounds) [1][12] – Vinyl chloride]			

<b>Table 51.1 Minimum Emission Rates Toxic Air Pollutants Class II. Suspected Human Carcinogens and Known or Suspected Human Reproductive Toxins</b>			
<b>Compounds</b>	<b>CAS Number</b>	<b>Synonyms</b>	<b>Minimum Emission Rate (Pounds/year)</b>
Acetaldehyde	75-07-0	Acetic aldehyde	700.0
Allyl chloride	107-05-1	3-chloropropene	25.0
Aniline	62-53-3	Aminobenzene, Phenylamine	600.0
Bis (2-chloroethyl) ether	111-44-4	Dichloroethyl ether	2,180.0
Biphenyl	92-52-4	1,1-biphenyl, Xenene	97.5
Carbon disulfide	75-15-0	Carbon bisulfide	2,400.0
***			
[See prior text in Carbon tetrachloride – Xylene (mixed isomers) [9]]			

<b>Table 51.1 Minimum Emission Rates Toxic Air Pollutants Class III. Acute and Chronic (Non-Carcinogenic) Toxins</b>			
<b>Compounds</b>	<b>CAS Number</b>	<b>Synonyms</b>	<b>Minimum Emission Rate (Pounds/year)</b>
Acetonitrile	75-05-8	Cyanomethane, Methyl cyanide	5,000.0
Acrolein	107-02-8	Acrylic aldehyde	25.0
Acrylic acid	79-10-7	Acroleic acid, Propene acid	400.0
Ammonia [10]	7664-41-7		1,200.0
Antimony (and compounds) [1]	7440-36-0		37.5
Barium (and compounds) [1]	7440-39-3		37.5
[See Prior Text in n-Butyl alcohol – Hydrochloric acid]			
Hydrofluoric acid	7664-39-3	Fluoric acid, Hydrogen fluoride	63.0
Hydrogen cyanide	74-90-8	Cyclon	800.0
Hydrogen sulfide	7783-06-4		1,000.0
Maleic anhydride	108-31-6	Cis-Butenedioic anhydride	70.0
Methanol	67-56-1	Methyl alcohol	20,000.0
Methyl isobutyl ketone	108-10-1	MIBK	15,000.0
***			
[See Prior Text in Methyl methacrylate - Zinc (and compounds) [1][12]]			

Explanatory Notes:  
[1]. - [12]. ...

<b>Table 51.2 Louisiana Toxic Air Pollutant Ambient Air Standards</b>				
<b>Compounds</b>	<b>CAS Number</b>	<b>Class</b>	<b>Ambient Air Standard [14]</b>	
			<b>(µg/m<sup>3</sup>*) (8 Hour Avg.)</b>	<b>(µg/m<sup>3</sup>**) (Annual Avg.)</b>
Acetaldehyde	75-07-0	II		45.50 [15]
Acetaldehyde	75-07-0	II		9.00 [16]
Acetonitrile	75-05-8	III	810.00	
Acrolein	107-02-8	III	5.40	
Acrylamide	79-06-1	I	7.14 [16]	0.08
Acrylic acid	79-10-7	III	140.0	
Acrylonitrile	107-13-1	I	103.10 [16]	1.47
Allyl chloride	107-05-1	II	71.40	
Ammonia [11]	7664-41-7	III	640.00	
Aniline	62-53-3	II	181.00	
Antimony (and compounds) [1]	7440-36-0	III	11.90	
Arsenic (and compounds) [1] [13]	7440-38-2	I	0.24 [16]	0.02
Barium (and compounds) [1]	7440-39-3	III	11.90	
Benzene	71-43-2	I	71.43 [16]	30.00 [17]
Beryllium (and compounds) [1]	7440-41-7	I	0.05 [16]	0.04
Biphenyl	92-52-4	II	23.80	
Bis (2-chloroethyl) ether	111-44-4	II		0.30

Table 51.2 Louisiana Toxic Air Pollutant Ambient Air Standards				
Compounds	CAS Number	Class	Ambient Air Standard [14]	
			(µg/m <sup>3</sup> *) (8 Hour Avg.)	(µg/m <sup>3</sup> **) (Annual Avg.)
1,3-Butadiene	106-99-0	I	104.76 [16]	2.00 [17]
n-Butyl alcohol	71-36-3	III	3,620.00 [15]	
n-Butyl alcohol	71-36-3	III	1,452.00 [16]	
Cadmium (and compounds) [1]	7440-43-9	I	0.12 [16]	0.06
Carbon disulfide	75-15-0	II	71.40	
Carbon tetrachloride	56-23-5	II		6.67
***				
[See prior text in Carbonyl sulfide – Chlorine dioxide]				
Chlorobenzene	108-90-7	II	1,100.00	
Chloroethane	75-00-3	II	6,290.00	
Chloroform	67-66-3	II		4.30
Chloromethane	74-87-3	II		90.00 [17]
Chloroprene	126-99-8	II	857.00	
Chromium VI (and compounds) [1] [13]	7440-47-3	I	2.38 [16]	0.01
Copper (and compounds) [1]	7440-50-8	II	23.80	
Cresol [4]	1319-77-3	III	300.00 [17]	
Cumene	98-82-8	III	5,860.00	
Diaminotoluene	25376-45-8	II	181.00	
1,2-Dibromoethane	106-93-4	I		0.45 [15]
1,2-Dibromoethane	106-93-4	I	3,642.86 [16]	0.17 [16]
Dibutyl phthalate	84-74-2	II	119.00	
1,4-Dichlorobenzene	106-46-7	II	1,430.00	
1,2-Dichloroethane	107-06-2	II		3.85
***				
[See prior text in Dichloromethane - 1,2-Dichloropropane]				
1,3-Dichloropropylene	542-75-6	II	107.00	
2,4-Dinitrotoluene [5]	121-14-2	II	4.76	
2,6-Dinitrotoluene [5]	606-20-2	II	4.76	
1,4-Dioxane	123-91-1	II	2,140.00 [15]	
1,4-Dioxane	123-91-1	II	107.00 [16]	
Epichlorohydrin	106-89-8	I	452.38 [16]	1.00 [16]
Epichlorohydrin	106-89-8	I		83.00 [15]
Ethyl acrylate	140-88-5	II	476.00	
Ethyl benzene	100-41-4	II	10,300.00	
Ethylene glycol	107-21-1	III	2,380.00	
Ethylene Oxide	75-21-8	I	42.86 [16]	1.00
Formaldehyde	50-00-0	I	21.90 [16]	7.69
***				
[See prior text in Glycol ethers [6] – Hydrazine]				
Hydrochloric acid	7647-01-0	III	180.00 [15]	
Hydrochloric acid	7647-01-0	III	71.00 [16]	
Hydrofluoric acid	7664-39-3	III	61.90 [15]	
Hydrofluoric acid	7664-39-3	III	9.80 [16]	
Hydrogen cyanide	74-90-8	III	260.00 [15]	
Hydrogen cyanide	74-90-8	III	120.00 [16]	
Hydrogen sulfide	7783-06-4	III	330.00	

Table 51.2 Louisiana Toxic Air Pollutant Ambient Air Standards				
Compounds	CAS Number	Class	Ambient Air Standard [14]	
			(µg/m <sup>3</sup> *) (8 Hour Avg.)	(µg/m <sup>3</sup> **) (Annual Avg.)
Maleic anhydride	108-31-6	III	23.80 [15]	
Maleic anhydride	108-31-6	III	9.50 [16]	
Manganese (and compounds) [1]	7439-96-5	II	4.76	
Mercury (and compounds) [1]	7439-97-6	II	1.19 [15]	
Mercury (and compounds) [1]	7439-97-6	II	0.24 [16]	
***				
[See prior text in Methanol - Methyl isobutyl ketone]				
Methyl methacrylate	80-62-6	III	9,760.00 [15]	
Methyl methacrylate	80-62-6	III	4,881.00 [16]	
Naphthalene (and Methyl-naphthalenes) [12]	91-20-3	II	1,190.00	
Nickel (and compounds) [1]	7440-02-0	I	23.81 [16]	0.21
Nickel (refinery dust) [1]	7440-02-0	I	35.71 [16]	0.42
***				
[See prior text in Nitric acid - Polynuclear aromatic hydrocarbons [7]]				
Propionaldehyde	123-38-6	III	4,290.00 [15]	
Propionaldehyde	123-38-6	III	1,143.00 [16]	
Propylene oxide	75-56-9	I	5,714.29 [16]	27.00
Pyridine	110-86-1	III	381.00 [15]	
Pyridine	110-86-1	III	74.00 [16]	
Selenium (and compounds) [1]	7782-49-2	II	4.76	
Styrene	100-42-5	II	5,070.00	
Sulfuric acid	7664-93-9	III	23.80 [15]	
Sulfuric acid	7664-93-9	III	4.76 [16]	
***				
[See prior text in 1,1,2,2-Tetrachloroethane – Trichloroethylene]				
Vinyl acetate	108-05-4	III	830.00 [15]	
Vinyl acetate	108-05-4	III	446.00 [16]	
Vinyl chloride	75-01-4	I	61.90 [16]	11.36 [17]
Vinylidene chloride	75-35-4	II		200.00 [17]
Xylene (mixed isomers) [9]	1330-20-7	II	10,300.00	
Zinc (and compounds) [1] [10] [13]	7440-66-6	III	119.00	

Explanatory Notes:

\* Based on one forty-second of the selected occupational exposure level, or other data determined to be superior by the administrative authority.

\*\* Based on unit risk factors and a residual risk of one in ten thousand, or other data determined to be superior by the administrative authority.

[1] Includes any unique chemical substance that contains the listed metal as part of that chemical's infrastructure, excluding barium sulfate. Barium sulfate has been delisted as a toxic air pollutant and should not be included as part of the metals and compound emissions. Concentrations based on µg(x)/m<sup>3</sup>, where x is the elemental form of the metal.

[2]. - [11]. ...

- [12] Includes the following compounds: Naphthalene (CAS Number 91-20-3), Methylnaphthalene (CAS Number 1321-94-4), 1-Methylnaphthalene (CAS Number 90-12-0), 2-Methylnaphthalene (CAS Number 91-57-6).
- [13] Zinc chromates and zinc arsenates are Class I TAPs regulated as carcinogens under Chromium VI (and compounds) and arsenic (and compounds) TAP categories.
- [14] The AAS for acetaldehyde, acetonitrile, biphenyl, carbon disulfide, chloroethane, cresol, 1,4-dichlorobenzene, 2,4-dinitrotoluene, 2,6-dinitrotoluene, ethylene glycol, manganese (and compounds) was revised effective January 1, 2002.
- [15] Effective until <INSERT DATE 3 YEARS FROM PROMULGATION OF THIS RULE>.
- [16] Effective starting date is <INSERT DATE 3 YEARS FROM PROMULGATION OF THIS RULE>. Compliance with the revised ambient air standards is to be addressed in the permitting process after the effective date.
- [17] Effective starting date is <INSERT DATE OF PROMULGATION OF THIS RULE>. Compliance with the revised ambient air standards is to be addressed in the permitting process after the effective date.

(225) 219-3168. Check or money order is required in advance for each copy of AQ281. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx)

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

Herman Robinson, CPM  
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Toxic Air Pollutant  
Ambient Air Standards**

Table 51.3 Louisiana Toxic Air Pollutants Supplemental List*			
Compounds	CAS Number	Class	Synonyms
***			
[See prior text in Acetamide – Methyl bromide]			
Methyl ethyl ketone [5]	78-93-3	III	MEK
***			
[See prior text in Methyl hydrazine – Vinyl bromide]			

Explanatory Notes:

\* – [4], ...

[5] Effective starting date is <INSERT DATE OF PROMULGATION OF THIS RULE>.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1331 (December 1995), amended LR 22:278 (April 1996), LR 24:1277 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1237 (July 1999), LR 26:2004 (September 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on October 25, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North 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 AQ281. Such comments must be received no later than October 25, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to [judith.schuerman@la.gov](mailto:judith.schuerman@la.gov). The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at

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

There will be no implementation costs or savings to state or local governments resulting from the promulgation of this rule.

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

Adjusting the AAS may require some facilities to install and operate additional control equipment. The additional control equipment should reduce emissions to the atmosphere. Facilities subject to this rule are billed annually on their emissions to the air. Since some emissions for which facilities are billed should be reduced, then the amount collected by the department will be less than the current collections. The amount less cannot be determined.

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

Approximately 28 facilities face the cost of installing additional control equipment in order to comply with the ambient air standards (AAS) that this proposed rule will make more stringent. However some of these facilities may not be able to comply with more than one revised AAS. The capital costs are estimated to be between \$10 and \$12.5 million, and the annual operating costs are estimated to be between \$3.8 and \$4.2 million. Since it is estimated that these costs will exceed \$1,000,000 in aggregate, a cost/benefit analysis has been developed for this proposal.

The economic benefits to people who avoid medical attention due to the revised standards cannot be estimated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

An individual facility's cost of compliance could have a negative impact on competition and employment in that industrial sector. Facilities with lower emissions that are not subject to this rule may experience a positive impact on competition and employment.

Herman Robinson, CPM  
Executive Counsel  
0709#034

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Office of the Governor Board of Certified Public Accountants

Practice Privileges and Licensing  
(LAC 46:XIX.1105, 1501, 1901, 1909, and 1911)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and of the Louisiana Accountancy Act, R.S. 37:74, the Board of Certified Public Accountants of Louisiana hereby provides notice of its intent to amend LAC 46:XIX:1105, 1501, 1901, 1909, and 1911. The objective of this action is to facilitate recognition of practice privileges for qualified CPAs in other states who seek to practice and offer services in multiple states. Another objective is to align the rules with corresponding requirements or standards of other state boards of accountancy. No preamble has been prepared with respect to the revised rules which appear below.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XIX. Certified Public Accountants

#### Chapter 11. Issuance and Renewal of Certificate

#### §1105. Certificate Application, Annual Renewals, Inactive Registration, Reinstatement, Practice Privileges under Substantial Equivalency

A. - D.4.c. ...

##### E. Practice Privileges under Substantial Equivalency

1. An individual holding a valid active CPA license issued by another state board of accountancy, who satisfies the requirements of R.S. 37:94 and Paragraph E.4 of this Section regarding substantial equivalency, shall be granted the privilege to practice as a CPA in Louisiana without the need to obtain a Louisiana certificate provided that such individual is not domiciled and does not have a principal place of business in Louisiana.

2. An individual, under the provisions of this section, who offers or renders professional services or uses the CPA title, whether in person, by mail, telephone, electronic, or other means *practices in Louisiana*, shall be granted practice privileges without the necessity of giving notice to the board or paying a fee to the board.

3. An individual granted practice privileges and his firm are subject to the requirements of R.S. 37:94(A)(3). In the event the license upon which the practice privileges are based is no longer active or valid, the practice privileges shall expire and the individual must cease using the CPA title in Louisiana and must cease offering or rendering professional services in Louisiana individually and on behalf of his firm.

##### 4. Determination of Substantial Equivalence

(a). With respect to substantial equivalence under R.S. 37:94.A(1), the board shall have publicly available a listing of states which the board has verified to be in substantial equivalence with the original licensure requirements of the Act. Any individual holding an original valid CPA license issued by a substantially equivalent state is qualified for practice privileges.

(b). With respect to substantial equivalence under R.S. 37:94.A(2), any individual, who does not currently hold an original valid CPA license issued by a state

which the board has verified to be in substantial equivalence with the original licensure requirements of the Act, is qualified for practice privileges if he holds a valid active CPA license issued by a state board of accountancy and has passed the Uniform CPA Examination (or IQEX examination if applicable), and he:

(i). has 150 semester hours of college education and has at least one year of CPA supervised accounting related experience in the last four years, or

(ii). has four years of experience outside of Louisiana as a practicing CPA (or Chartered Accountant if applicable) within the last 10 years.

5. An individual granted practice privileges may perform the following services for a client whose home office is in Louisiana only through a firm which has obtained a permit issued under R.S. 37:77 and §1501:

(a). a financial statement audit or other engagement to be performed in accordance with Statements on Auditing Standards or Government Auditing Standards;

(b). any examination of prospective financial information to be performed in accordance with Statements on Standards for Attestation Engagements; or

(c). any engagement to be performed in accordance with PCAOB auditing standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended LR 9:208 (April 1983), LR 11:758 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997), LR 26:1974 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 32:2249 (December 2006), LR 33:

#### Chapter 15. Firm Permits to Practice; Attest Experience; Peer Review

#### §1501. CPA Firm Permits; Attest Experience; Application, Renewal, Reinstatement; Internet Practice

A. Any firm which has or establishes an office or place of business in Louisiana which provides attest services or which uses the title "CPA," "CPAs," "CPA firm," "Certified Public Accountant," "firm of Certified Public Accountants," or similar such designations and firms described in Subsection B of this Section must obtain and hold a valid and current firm permit issued by the board under R.S. 37:77(A). The use of any of the above titles or designations anywhere on firm letterhead, business cards, electronic correspondence, advertisements or publications, promotional materials, or any other publicly disseminated medium by a firm not holding a valid and current firm permit is not allowed if it implies the existence of an entity that holds a current and valid firm permit issued by the board under the provisions of R.S. 37:77(A):

1. the board may require that such firm applying for issuance, renewal or reinstatement of a firm permit to provide any and all information and/or documentation that the board deems appropriate and necessary to ensure the firm's compliance with all provisions of the Act;

2. any such CPA firm organized as and/or represented as a professional accounting corporation is considered to be using the title "firm of certified public accountants" and

therefore must hold a firm permit, pursuant to R.S. 37:77(A);

3. "active individual participants" as referred to in R.S. 37:77(C)(2)(b) means natural persons, firms, associations, partnerships, corporations, or other business organizations or entities, in which all owners of such entities must provide personal services in the CPA firm or its affiliated entities in the nature of management, performance of services for clients, performance of services which assist the certificate holders within the firm in providing professional services, or similar activities; and

4. a person or entity which makes or holds a passive investment in a CPA firm or its affiliated entities for the purposes of receiving income from the firm or its affiliated entities shall not constitute "active individual participation" as referred to in R.S. 37:77(C)(2)(b);

5. a certificate holder, or an individual granted practice privileges under R.S. 37:94, who is responsible for supervising attest services, or who signs or authorizes someone to sign accountant's reports on behalf of the firm, shall meet the experience and competency requirements for a "practitioner in charge" as set forth in AICPA Quality Control Standards;

6. all firms holding a valid registration as a certified public accounting firm June 18, 1999 shall be deemed to have met the initial firm permit requirements.

B. A firm which does not have an office or a place of business in Louisiana that offers to perform or performs services described in §1105.E.5 of this Section for a client whose home office is in Louisiana must hold a permit issued under R.S. 37:77 and Subsection A of this Section.

C. A firm which does not have an office or a place of business in Louisiana that offers to perform or performs professional services other than those cited in Paragraph E.5 of this Section for a client whose home office is in Louisiana may perform such services and use the title "CPA" or "CPA firm" without a permit only if:

1. the firm satisfies the ownership qualifications described in R.S. 37:77(C) and is subject to quality or peer review under a state board of accountancy approved program or under the AICPA Peer Review Program and has completed such a quality or peer review within the last three years,

2. the firm performs such services only through individual licensees with practice privileges under R.S. 37:94 and §1105. E or holding a license issued under R.S. 37:77, and

3. the firm can lawfully perform such services in the state where such individual licensees have their principal place of business.

4. If the firm does not satisfy one or more of the requirements cited in Paragraphs 1, 2 and 3 above, the firm must apply for a permit for a board determination as to whether the firm is qualified to practice in Louisiana.

#### D. Firm Permits

1. Applications by firms for initial issuance and for renewal of permits pursuant to R.S. 37:77 shall be made on a form provided by the board. Applications will not be considered filed until the applicable fee, all requested information, and the required documentation prescribed in these rules are received.

2. A firm registered pursuant to R.S. 37:77 shall file with the board a written notification of any of the following events concerning the practice of public accountancy within this state within 30 days after its occurrence:

a. change in the firm's designated licensee;

b. formation of a new firm;

c. addition of a new partner, member, manager or shareholder;

d. any change in the name of a firm;

e. termination of the firm;

f. change in the management of any office in this state;

g. establishment of a new office location or the closing or change of address of an office location in this state;

h. the occurrence of any event or events which would cause such firm not to be in conformity with the provisions of the Act or any rules or regulations adopted by the board.

3. In the event of any change in the legal form of a firm, such new firm shall within 30 days of the change file an application for an initial permit in accordance with board rules and pay the fee required by the rules.

4. Samples of original letterhead must also be included with permit and renewal applications. Names of licensed partners, shareholders, members, managers and employees, and names of non-licensee owners, may be shown on a firm's stationery letterhead. However, names of licensed partners, shareholders, members and managers shall be separated from those of licensed employees by an appropriate line. Licensees shall be clearly identified and the names of non-licensee owners shall be separated from the name of licensees by an appropriate line.

5. Any firm which falls out of compliance with the provisions of R.S. 37:77 due to changes in firm ownership or personnel after receiving, renewing, or reinstating a firm permit shall notify the board in writing within 30 days of the occurrence of changes which caused the firm to fall out of compliance with R.S. 37:77.

a. Such notification shall include an explanation as to how and why the firm is not in compliance and the date upon which the firm fell out of compliance with R.S. 37:77.

b. The firm shall also provide any additional information or documentation the board may request concerning the firm's noncompliance with R.S. 37:77.

6. Within 30 days of written notification to the board that the firm is not in compliance with R.S. 37:77, the firm shall notify the board in writing that the firm has taken corrective action to bring the firm back into compliance.

a. Such notification shall include a description of the corrective action taken, and the dates upon which the corrective action was taken.

b. The firm shall also provide any additional information or documentation the board may request concerning the corrective actions taken to ensure the firm's compliance with R.S. 37:77.

7. For good cause shown, the board may grant additional time for a firm to take corrective action to bring the firm into compliance with R.S. 37:77.

8. Any firm permit suspended or revoked for failure to bring the firm back into compliance within the time period

described above, or within the additional time granted by the board, may be reinstated by the board upon receipt of written notification from the firm that the firm has taken corrective action to bring the firm back into compliance. Such notification shall include a description of the corrective action taken, the dates upon which the corrective action was taken, and any additional information or documentation the board may request concerning the corrective actions taken.

9. The board may impose additional requirements at its discretion, including but not limited to monetary fees, on any firm as a condition for reinstatement of a firm permit suspended or revoked for failure to bring the firm into compliance with R.S. 37:77.

10. At its discretion, the board may also take action against the CPA certificate or practice privilege of the firm's designated licensee for failure to provide written notification to the board required in this Section.

#### E. Firm Permit Renewals

1. Firm Permit renewals shall be filed in accordance with certificate renewals, i.e., renewals are due by December 31, delinquent if not renewed prior to February 1; and, expired if not renewed prior to March 1.

2. Delinquent fees for firm permit renewals shall be \$15 per owner, partner, member or shareholder if not renewed prior to February 1; \$30 if not renewed prior to March 1.

F. An annual renewal fee to be set by the board, based on the total number of owners, partners, members and/or shareholders in the firm who are not licensed to practice in Louisiana but not to exceed \$15 per owner, partner, member or shareholder with a maximum of \$5,000 per firm if timely filed, shall be paid by each firm that files in accordance with the provisions of §1501.E-G.

#### G. Reinstatement of Firm Permits

1. To reinstate a firm permit which has been expired for a year or more due to non-renewal, the firm shall be required to file an initial application for a firm permit and pay the applicable application fee. The firm shall also be required to pay applicable delinquent fees.

2. For good cause shown, the board may waive in whole or in part the reinstatement fees provided for in this Section.

3. In addition to reinstatement fees, an additional fee may be assessed against those CPA firms whose firm permits expired or were cancelled pursuant to this Section three times within six years.

4. In addition to the above fees, an additional reinstatement fee may be assessed against those CPA firms which continued to practice as a CPA firm after the expiration or cancellation of the firm permit pursuant to this Section. Such fee shall be determined by the length of the period of time the firm has practiced without a permit times the annual renewal fee including additional for delinquency each year.

5. No firm permit shall be renewed or reinstated by the board if the firm applying for renewal or reinstatement has failed to remit full payment of any fees, fines, penalties, expenses, or reimbursement of costs incurred by the board, which the firm owes the board or has been ordered to pay to the board.

H. Internet Practice. A CPA firm offering or performing services via a web site shall provide on the web site the

firm's name, address, and the states in which the CPA firm holds a license or permit to practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 3:308 (July 1997), amended LR 6:9 (January 1980), amended LR 9:209 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997), LR 26:1980 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 32:2249 (December 2006), LR 33:

### **Chapter 19. Investigations; Hearings; Suspension, Revocations or Restrictions; Reinstatements**

#### **§1901. Charges in Writing; Investigative Files**

A. Charges against holders of CPA certificates, practice privileges, and/or firm permits shall be made in writing, signed by the persons preferring the charges and addressed or delivered to the board. The board's investigative staff may establish or open an investigative file upon receipt of such charges.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997), LR 26:1987 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 33:

#### **§1909. Hearing**

A. - U. ...

V. Any licensee whose certificate, practice privilege, or firm permit issued by the board is subsequently suspended or revoked may be required within 30 days to return such certificate, registration or firm permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997), LR 26:1988 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 33:

#### **§1911. Reinstatement of Licenses (After Revocation, Suspension, Refusal to Renew)**

A. Upon receipt by the board of a written request for reissuance of a certificate, practice privilege, or firm permit which has been revoked by the board, or issuance of a new certificate, practice privilege, or firm permit under a new number to a person or firm whose certificate, practice privilege, or firm permit has been revoked, or for termination of a suspension of a certificate, practice privilege, or firm permit suspended by the board, the board shall specify the time period and the manner in which such application shall be considered, pursuant to R.S. 37:82.B. The application shall include any and all information the board deems appropriate.

B. The board may, at its sole discretion, impose appropriate terms and conditions for reinstatement of a

certificate, practice privilege, registration or firm permit or modification of a suspension, revocation or probation.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 26:1989 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 33:

**Family Impact Statement**

Implementation of the proposed Rule will have no known effect upon family stability, functioning, earnings, budgeting; the responsibility and behavior of children; or, upon parental rights and authority, as set forth in R.S. 49:972.

Interested persons may submit written comments. Written comments must be received by 4 p.m., October 19, 2007 at the following address: Michael A. Henderson, Executive Director, State Board of Certified Public Accountants of Louisiana, 601 Poydras Street, Suite 1770, New Orleans, LA 70130. Copies of the current rules and a draft of the rules intended for adoption are available upon request. Requests for a public hearing may be made through October 10, 2007.

Michael A. Henderson  
Executive Director

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

**RULE TITLE: Practice Privileges and Licensing**

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

No costs or savings to governmental units are anticipated as a result of implementation of the proposed rule changes other than one-time costs for publication and dissemination.

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

Self generated revenue to the Board of CPAs is estimated to decrease by \$25,705 per year based on the elimination of annual notice fees and permit renewal fees currently paid by certain out of state CPAs and CPA firms who will be able to practice in Louisiana provided they satisfy the qualification requirements necessary to be granted practice privileges. No other effect on revenue to governmental units is anticipated.

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

Persons directly affected are out of state CPAs who currently are required to file a notice and pay a \$75 fee annually for practice privileges. In addition, certain out of state CPA firms, which do not perform audits or examinations of prospective financial information in Louisiana, will no longer have to apply for or renew a firm permit in Louisiana. There will be a reduction in costs and less paperwork necessary to be filed annually because of the elimination of the notice and fee requirements.

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

The rule changes eliminate requirements of certain out of state CPAs to complete a notice form and submit a notice fee to the Board. This is expected to facilitate responsiveness of qualified CPAs from other states and enable them to expeditiously offer services to the Louisiana public.

Competition is expected to be enhanced for Louisiana consumers, as they will have more options in selecting among qualified CPAs, who will compete for their business.

Michael A. Henderson  
Executive Director  
0709#043

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Office of State Purchasing**

Use of Brand Name, LaMAS, and Multi-State Contracts  
(LAC 34:I.1709)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under authority of R.S. 39:1581, Office of the Governor, Division of Administration, State Purchasing, proposes to adopt the following Rule to require purchasing agents to compare contracts and seek best value procurements where multiple contracts exist for like or similar items. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 34**

**GOVERNMENT CONTRACTS, PROCUREMENT  
AND PROPERTY CONTROL**

**Part I. Purchasing**

**Subpart 1. Central Purchasing Procedures**

**Chapter 17. Types of Contracts**

**§1709. Use of Brand Name, LaMAS (Louisiana Multiple Award Schedule), and Multi-State Contracts**

A. The state reserves the right to create and use brand name, LaMAS, and multi-state contracts (hereinafter referred to as Louisiana Price Schedules for different brands of same or similar item(s)).

B. Where Louisiana Price Schedules ("LaPS") exist for same or similar item(s) and the procurement is above \$25,000, all eligible users of these contracts will utilize the following procedures.

1. Prepare a request for responses that may include, if applicable the following: (A request for response is an informal process used to make a best value determination)

a. a performance-based statement of work that includes such things as:

- i. the work to be performed;
- ii. location of work;
- iii. period of performance;
- iv. deliverable schedule;
- v. applicable performance standards;
- vi. acceptance criteria;
- vii. any special requirements (e.g., security clearances, special knowledge, etc.);

viii. the products required using a generic description of products and functions whenever possible;

b. if necessary or applicable, a request for submittal of a project plan for performing the task and information on the contractor's experience and/or past performance performing similar tasks;

- c. a best value determination is one that considers, in addition to underlying contract pricing, such factors as:
  - i. probable life of the item selected;
  - ii. environmental and energy efficiency considerations;
  - iii. technical qualifications;
  - iv. delivery terms;
  - v. warranty;
  - vi. maintenance availability;
  - vii. administrative costs;
  - viii. compatibility of an item within the user's environment; and
  - ix. user's familiarity with the item or service;
- d. a request for submittal of a firm-fixed total price for labor and/or products which are no higher than prices in the LaPS contract.

2. Submit the request for response to at least three LaPS contract holders, whenever available, offering functionally equivalent products and/or services that will meet the agency's needs.

3. Evaluate Responses and Select the Contractor to Receive the Order

a. After responses have been evaluated, the order shall be placed with the contractor that represents the best value that meets the agency's needs. The ordering agency should give preference to small-entrepreneurships or small and emerging businesses when two or more contractors can provide the services and/or products at the same firm-fixed total price.

b. The ordering agency shall document in the procurement file the evaluation of the contractors' responses that formed the basis for the selection. The documentation shall identify the contractor from which the services and/or products were purchased, the services and/or products purchased, and the cost of the resulting purchase order.

c. Purchases shall not be artificially divided to avoid the requirements of this section when recurring requirements for same products are known.

d. Nothing herein relieves a state agency from following Office of Information Technology requirements for submission of IT 10 requests, for annual IT budget requests, or mid-year budget adjustment requests.

e. A listing of all contracts applicable to this Section will be maintained on the Office of State Purchasing's website <http://www.doa.louisiana.gov/osp/osp.htm>

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 33:

**Family Impact Statement**

- 1. The proposed Rule will not affect the stability of the family.
- 2. The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of children.
- 3. The proposed Rule will not affect the functioning of the family.
- 4. The proposed Rule will not affect family earnings or family budget.

5. The proposed Rule will not affect the behavior or personal responsibility of children.

6. The proposed Rule deals strictly with the state's procurement function.

All interested persons may submit written comments on the proposed Rule through October 10, 2007, to Denise Lea, Office of State Purchasing, P.O. Box 94095, Baton Rouge, LA 70804. All interested persons will be afforded an opportunity to submit data, views, or arguments in writing at the address above.

Jerry Luke LeBlanc  
Commissioner

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

**RULE TITLE: Use of Brand Name, LaMAS,  
and Multi-State Contracts**

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

There is a potential savings to the state because of the additional contract review and documentation processes implemented by the proposed rule. Any savings resulting from the proposed rule change is not anticipated to be significant.

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

There should be no effect on revenue collections of state or local governmental units as a result of this rule change.

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

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

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

There will be a positive effect on competition because agencies will now be required to review several like-contracts to determine which contract best meets its needs.

Denise Lea  
Director  
0709#019

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Motor Vehicle Commission**

Advertising (LAC 46:V.Chapter 7)

Editor's Note: This Notice of Intent is being repromulgated because of an error upon submission. The original Notice of Intent may be viewed on pages 1726-1732 of the August 2007 edition of the *Louisiana Register*.

In accordance with the provisions of the Administrative Procedure Act R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapter 6, the Office of the Governor, Louisiana Motor Vehicle Commission, notice is hereby given that the Louisiana Motor Vehicle Commission proposes to repeal Chapter 7 and replace it with new regulations and language to clarify the Rule, put into the Rule customary procedures of the commission to assist its licensees in designing their advertising programs.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part V. Automotive Industry**

**Subpart 1. Motor Vehicle Commission**

**Chapter 7. Advertising**

**§701. Advertising; Dealer Name**

A. Dealers may advertise only under the name that appears on their franchise agreement and dealer license issued by the Motor Vehicle Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

**§703. General Prohibition**

A. A person advertising motor vehicles shall not use false, deceptive, unfair, or misleading advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

**§705. Specific Rules**

A. The violation of an advertising rule shall be considered by the commission as a prima facie violation of the Louisiana Motor Vehicle Commission Law. In addition to a violation of a specific advertising rule, any other advertising or advertising practices found by the commission to be false, deceptive, or misleading shall be deemed violations of the Louisiana Motor Vehicle Commission Law, and shall also be considered violations of the general prohibition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

**§707. Definitions**

*Abbreviations*—using shortened terms for words or initials for groups of words. Commonly understood abbreviations, such as " '2DR'," " 'AM/FM'," " 'APR'," " 'WAC'," " 'DEMO'," " 'EXEC'," " 'DOC FEE'," may be used. Trade industry abbreviations which are not commonly understood, such as " 'FTB'," " 'A/R'," " 'TOP'," " 'POF'," or " 'DOC'," MAY NOT be used. This rule does not contain a list of all the abbreviations one may not use.

*Advertisement*—an oral, written, telecommunicated, graphic, or pictorial statement made in the course of soliciting business, including, without limitation, a statement or representation made in a newspaper, magazine, or other publication, or contained in a notice, sign, poster, display, circular, pamphlet, letter, flyer, price tag, window sticker, banners, billboards, handbills, or on radio, the Internet, or via on-line computer service, or on television or on-hold messaging, any medium.

*Bait Advertisement*—an alluring but insincere offer to sell or lease a product of which the primary purpose is to obtain leads to persons interested in buying or leasing merchandise of the type advertised and to switch consumers from buying or leasing the advertised product in order to sell some other product at a higher price or on a basis more advantageous to the advertiser.

*Balloon Payment*—any scheduled payment required by a consumer credit sale or consumer loan that is more than

twice as large as the average of all prior scheduled payments except the down payment.

*Dealership Addendum*—a form which is to be displayed on a window of a motor vehicle when the dealership installs special features, equipment, parts or accessories, or charges for services not already compensated by the manufacturer or distributor for work required to prepare a vehicle for delivery to a buyer.

1. The addendum is to disclose:

a. that it is supplemental;

b. any added feature, service, equipment, part, or accessory charged and added by the dealership and the retail price therefore;

c. any additional charge to the manufacturer's suggested retail price (MSRP) such as additional dealership markup; and

d. the total dealer retail price.

2. The dealership addendum form shall not be deceptively similar in appearance to the manufacturer's label, which is required to be affixed by every manufacturer to the windshield or side window of each new motor vehicle under the Automobile Information Disclosure Act.

*Demonstrator*—a new motor vehicle that is currently in the inventory of the automobile dealership and used or has been used primarily for test drives by customers and other dealership purposes and so designated by the dealership. Demonstrators may be advertised for sale as such only by an authorized dealer in the same make of motor vehicle.

*Disclaimer*—those words or phrases used to provide a clear understanding of any advertised statement, but not used to contradict or change the meaning of the statement.

*Disclosure*—a clear and conspicuous statement made in such size, color, contrast, location, duration, and audibility that it is readily noticeable, readable and understandable. The disclosure may not contradict or be inconsistent with any other information with which it is presented. If the disclosure modifies, explains, or clarifies other information with which it is presented, or states "see dealership for details," then it must be presented in proximity to the information it modifies, in a manner readily noticeable, readable, and understandable, and it must not be obscured in any manner.

1. An audio disclosure must be delivered in a volume and cadence sufficient for a consumer to hear and comprehend it.

2. A visual disclosure for television must appear on the screen for a duration sufficient for a consumer to read and comprehend it.

3. In a print or internet advertisement or promotional material, including without limitation point of sale display or brochure materials directed to consumers, a disclosure must be in a type size and location sufficiently noticeable for a consumer to read and comprehend it, in a print that contrasts with the background against which it appears. For purposes of these rules, qualifying terms and phrases will be considered to be clearly, conspicuously and accurately set forth if they are:

a. in bold print and type of such size that is capable of being read without unreasonable extra effort;

b. expressed in terms that are understandable to the buying public; and

c. in close proximity to the qualified representation and not separated or buried by asterisk in some other part of the advertisement.

*Factory Executive/Official Vehicle*—a new motor vehicle that has been used exclusively by an executive or official of the dealer's franchising manufacturer, distributor or their subsidiaries.

*Internet*—a system that connects computers or computer network.

*Licensee*—any person required to obtain a license from the Louisiana Motor Vehicle Commission.

*Manufacturer's Label*—the label required by the Automobile Information Disclosure Act, 15 U.S.C. 1231-1233, to be affixed by the manufacturer to the windshield or side window of each new automobile delivered to the dealer.

*Program Vehicle*—used vehicle that is purchased at a manufacturer's closed auction or sold by or directly from the manufacturer or distributor which is current or previous year model, that has been previously tagged and/or titled, and returned to the manufacturer for disposal.

*Rebate or Cash Back*—a sum of money refunded to a purchaser for the benefit by the manufacturer or distributor after full payment has been rendered. The purchaser may choose to reduce the amount of the purchase price by the sum of money or the purchaser may opt for the money to be returned to himself or for his benefit subsequent to payment in full.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

#### **§709. Availability of Vehicles**

A. A licensee may advertise a specific vehicle or line-make of vehicles for sale if:

1. the specific vehicle or line is in the possession of the licensee at the time the advertisement is placed, or the vehicle may be obtained from the manufacturer or distributor or some other source, and this information is clearly and conspicuously disclosed in the advertisement; and

2. the price advertisement sets forth the number of vehicles available at the time the advertisement is placed or a dealer can show he has available a reasonable expectable public demand based on prior experience. In addition, if an advertisement pertains to only one specific vehicle, then the advertisement must also disclose the vehicle's stock number or vehicle identification number.

B. Motor vehicle dealers may advertise a specific used vehicle or vehicles for sale if:

1. the specific used vehicle or vehicles is in the possession of the dealer at the time the advertisement is placed; and

2. the title certificate to the used vehicle has been assigned to the dealer.

C. This Section does not prohibit general advertising of vehicles by a manufacturer, dealer advertising association, or distributor and the inclusion of the names and addresses of the dealers selling such vehicles in the particular area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

#### **§711. Accuracy**

A. All advertised statements shall be accurate, clear and conspicuous.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

#### **§713. Untrue Claims**

A. The following statements are prohibited, list not exclusive:

1. statements such as "write your own deal," "name your own price," "name your own monthly payments," "appraise your own motor vehicle" or statements with similar meaning;

2.a. statements such as "everybody financed," "no credit rejected," "we finance anyone," "guaranteed approval," and other similar statements representing or implying that no prospective credit purchaser will be rejected because of his inability to qualify for credit;

b. statements such as "all credit applications accepted," or terms with similar meaning are deemed deceptive and shall not be used;

3. statements representing that no other person grants greater allowances for trade-ins, however stated, unless such is the case;

4. statements representing that because of its large sales volume a person is able to purchase vehicles for less than another person selling the same make of vehicles. Statements such as "big volume buying power," "manufacturer's outlet," "factory authorized outlet," and "factory wholesale outlet," shall not be used. Any term that gives the consumer the impression the dealer has a special arrangement with the manufacturer or distributor as compared to similarly situated dealers, is misleading and shall not be used;

5. "double rebates," "triple rebates" or any other amount of rebates that are not truly offered by the manufacturer are prohibited;

6. specific claims or discount offers shall not be used in connection with any motor vehicle other than new or a demonstrator and then only to show the difference between the dealer's own current selling price and the bona fide manufacturer's suggested list price, if an automobile, or manufacturer's suggested retail price, if a truck. Full explanation must be given, as for example, "save or discount \$ from manufacturer's list/retail price." Such statements as "up to," "as much as," "from"-to," etc., shall not be used in connection with savings claims;

7. any claims such as "first," "largest" and/or "biggest" may be advertised only when the licensee is the "first," "largest" and/or "biggest" in retail sales for a calendar year. The claim of "first," "largest" and/or "biggest" must be qualified as to validity (using valid source data) and the time period of the claim with all qualifying language to be in the same size print as the claim. Additionally, the advertisement of the claim may only be utilized for the following calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

**§715. Layout**

A. The layout, headlines, illustrations, or type size of a printed advertisement and the broadcast words or pictures of radio/TV advertisements shall not convey or permit an erroneous or misleading impression as to which vehicle or vehicles are offered for sale or lease at featured prices. No advertised offer, expression, or display of price, terms, down payment, trade-in allowance, cash difference, savings, or other such material terms shall be misleading and any necessary qualification shall be clearly, conspicuously, and accurately set forth to prevent misunderstanding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

**§717. Manufacturer's Suggested Retail Price**

A. The suggested retail price of a new motor vehicle when advertised by a manufacturer or distributor shall include all costs and charges for the vehicle advertised, except that destination and dealer preparation charges, state and local taxes, title, and license fees may be excluded from such price, provided that the advertisement clearly and conspicuously states that such costs and charges are excluded. With respect to advertisements placed with local media in Louisiana by a manufacturer or distributor which includes the names of the local dealers of the vehicles advertised, if the price of a vehicle is stated in the advertisement, such price must include all costs and charges for the vehicle advertised, including destination and dealer preparation charges and may exclude only state and local taxes, license, and title fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

**§719. Dealer Price Advertising**

A. The featured price of a new or used motor vehicle, when advertised, must be the full cash price for which the vehicle will be sold to any and all members of the buying public. The only charges that may be excluded from the advertised price are:

1. state and local taxes;
2. license;
3. title; and
4. notarial fees, convenience fees and documentary fees.

B. A qualification may not be used when advertising the price of a vehicle such as "with trade," "with acceptable trade," "with dealer-arranged financing," "rebate assigned to dealer" or "with down payment."

C. If a price advertisement of a new motor vehicle discloses a rebate, cash back, discount savings claim, or other incentive, the full cash price of the vehicle must be disclosed as well as the price of the vehicle after deducting the incentive. The following is an acceptable format for advertising a price with rebates and other deductions:

Mfg. Sugg. Retail Price	\$9,995
less rebate	\$ 500
less dealer discount	\$ 500
Sale Price	\$8,995

D. If a rebate is only available to a selected portion of the public and not the public as a whole, the price should be disclosed as in Subsection C first and then the nature of the

limitation and the amount of the limited rebate may be disclosed. The following is an acceptable format:

Mfg. Sugg. Retail Price	\$9,995
less rebate	\$ 500
less dealer discount	\$ 500
Sale Price	\$8,995
First Time Buyer's Receive	
Additional \$500 Off	

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

**§721. Identification**

A. When the price of a vehicle is advertised, the following must be disclosed:

1. model year;
2. make;
3. model line and style or model designation; and
4. whether the vehicle is a used, demonstrator, or a factory executive/official vehicle.

B. Expressions such as "fully equipped," "factory equipped," "loaded," and other such terms shall not be used in any advertisement that contains the price of a vehicle unless the optional equipment of the vehicle is listed in the advertisement.

C. An illustration of a motor vehicle used in an advertisement must be substantially the same as that of the motor vehicle advertised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

**§723. Advertising at Cost or Invoice**

A. No advertisement shall be run which uses the term or terms "invoice;" "cost;" "percent over/under cost, invoice or profit;" "\$\$\$ over/under cost, invoice or profit."

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

**§725. Trade-In Allowances**

A. No guaranteed trade-in amount or range of amounts shall be featured in advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

**§727. Used Vehicles**

A. A used vehicle shall not be advertised in any manner that creates the impression that it is new. A used vehicle shall be identified as either "used" or "pre-owned." Terms such as program car, special purchase, factory repurchase, certified or other similar terms are not sufficient to designate a vehicle as used, and these vehicles must also be identified as "used" or "pre-owned."

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

**§729. Demonstrators, Factory Executive/Official Vehicles**

A. If a demonstrator or factory executive/official vehicle is advertised, the advertisement must clearly and conspicuously identify the vehicle as a demonstrator or

factory executive/official vehicle. A demonstrator or factory executive/official vehicle may be sold only by a dealer franchised and licensed to sell that line-make of new motor vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

#### **§731. Auction**

A. Terms such as "auction" or "auction special" and other terms of similar import shall be used only in connection with a vehicle offered or sold at a bona fide auction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

#### **§733. Free Offers**

A. No merchandise or enticement may be described as "free" if the vehicle can be purchased or leased for a lesser price without the merchandise or enticement of if the price of the vehicle has been increased to cover the cost or any part of the cost of the merchandise or enticement. The advertisement shall clearly and conspicuously disclose the conditions under which the "free" offer may be obtained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

#### **§735. Cash Offers**

A. Any cash offer or anything that is convertible to cash funded by the dealer shall not be used and is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

#### **§737. Authorized Dealer**

A. The term "authorized dealer" or a similar term shall not be used unless the advertising dealer holds both a franchise and a Louisiana Motor Vehicle Commission license to sell those vehicles he is holding himself out as "authorized" to sell.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

#### **§739. Manufacturer and Distributor Rebates**

A. It is unlawful for a manufacturer or distributor to advertise any offer of a rebate, refund, discount, or other financial inducement or incentive, which is either payable to or for the benefit of the purchaser or which reduces the amount to be paid for the vehicle, whether the amount is the vehicle purchase price, the interest or finance charge expense, or any other cost accruing to the purchaser if any portion of such rebate, refund, discount, or other financial incentive or inducement is paid or financed or in any manner contributed to by the dealer selling the vehicle, unless the advertisement discloses that the dealer's contribution may affect the final negotiated price of the vehicle. With respect to interest or finance charge expense programs, an advertisement shall disclose that participating dealers contribute to the reduction of the financing rate and that the dealer's contribution may affect the final negotiated price of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

#### **§741. Rebate and Financing Rate Advertising by Dealers**

A. It is unlawful for a dealer to advertise an offer of a manufacturer's or distributor's rebate, discount, or other financial inducement or incentive if the dealer contributes to the manufacturer's or distributor's program unless such advertising discloses that the dealer's contribution may affect the final negotiated price of the vehicle. With respect to interest or finance charge expense programs, if a participating dealer contributes to the reduction of a financing rate, then a disclosure must state that the dealer's contribution may affect the final negotiated price of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

#### **§743. Lease Advertisements**

A. Vehicle lease advertisements shall clearly and conspicuously disclose that the advertisement is for the lease of a vehicle. Statements such as "alternative financing plan," "drive away for \$\_\_\_\_\_ per month," or other terms or phrases that do not use the term "lease," do not constitute adequate disclosure of a lease. Lease advertisements shall not contain the phrase "no down payment" or words of similar import if any outlay of money is required to be paid by the customer to lease the vehicle. Lease terms that are not available to the general public shall not be included in advertisements directed at the general public, or all limitations and qualifications applicable to qualified buyers to the lease terms advertised shall be clearly and conspicuously disclosed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

#### **§745. Manufacturer Sales; Wholesale Prices**

A. New vehicles shall not be advertised for sale in any manner that creates the impression that they are being offered for sale by the manufacturer or distributor of the vehicles. Advertisements by persons shall not contain terms such as "factory sale," "fleet prices," "wholesale prices," "factory approved," "factory sponsored," or any other similar terms which indicate sales other than retail sales from the dealer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

#### **§747. Savings Claims; Discounts**

A. A savings claim or discount offer is prohibited except to advertise a new or demonstrator vehicle, and the advertisement must show the difference between the dealer's selling price and the manufacturer's, distributor's, or converter's total suggested list price or MSRP.

B. The featured savings claim or discount offer for a new motor vehicle, when advertised, must be the savings claim or discount which is available to any and all members of the buying public.

C. If a dealer has added an option obtained from the manufacturer or distributor of the motor vehicle on which it is installed and disclosed the option and factory suggested retail price of the option on a dealership addendum sticker prior to offering the vehicle for sale at retail, the dealer may advertise a savings claim on that vehicle as long as the difference is shown between the dealer's selling price and the total selling price as disclosed on the dealership addendum sticker and discloses the factory-available options added in the advertisement. If an option that is added by a dealer is not a factory-available option, a savings claim may not be advertised on that vehicle.

D. Statements such as "up to," "as much as," "from," shall not be used in connection with savings or discount claims.

E. No person may advertise a savings claim or discount offer on used motor vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

#### **§749. Sales Payment Disclosures**

A.1. An advertisement that contains any one of the following messages, statements, or terms:

- a. the amount of a down payment, in either a percentage or dollar amount;
  - b. the amount of any payment, in either a percentage or dollar amount;
  - c. the number of payments;
  - d. the period of repayment; or
  - e. the amount of any finance charge;
2. must include the following:
- a. the amount or percentage of the down payment;
  - b. the terms of repayment (the number of months to make repayment and the amount per month) including the amount and due date of any balloon payment;
  - c. the annual percentage rate or APR; and
  - d. the amount of annual percentage rate, if increased, after consummation of the credit transaction.

B. An advertisement which complies with the Federal Truth-In-Leading Act (15 U.S.C. §160 et seq.) and amendments thereto, and any regulations issued or which may be issued thereunder, shall be deemed in compliance with the provisions of this Section. Any advertisement not in compliance with these federal provisions constitutes violation(s) of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

#### **§751. Payment Disclosure—Lease**

A. It is an unfair or deceptive act to advertise the offer of a "consumer lease" if the advertisement contains any one of the following two "triggering terms": amount of any payment or a statement of any capitalized cost reduction or other payment required prior to or at consummation or by delivery, if delivery occurs after consummation, without clearly and conspicuously disclosing:

1. that the transaction is a lease in close proximity to and, where applicable, in the same decibel tone as, the amount of the periodic payment;

2. the total amount due prior to or at consummation or by delivery, if delivery occurs after consummation;

3. the number, amounts, and due dates or periods of scheduled payments under the lease;

4. a statement of whether a security deposit is required; and

5. a statement that an extra charge may be imposed at the end of the lease term where the lessee's liability (if any) is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

B. Except for the statement of a periodic payment, any affirmative or negative reference to a charge that is part of the total amount due at lease signing shall not be more prominent than that disclosure.

C. An advertisement which complies with the Consumer Leasing Act of 1976 (15 USC 1601 et seq.), and amendments thereto, and any regulations issued or which may be issued thereunder, shall be deemed in compliance with the provisions of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

#### **§753. Bait Advertisement**

A. "Bait" advertisement, as defined in §707, shall not be used by any person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

#### **§755. Lowest Price Claims**

A. Representing a lowest price claim, best price claim, best deal claim, or other similar superlative claim shall not be used in advertising.

B. A person may not advertise a "meet or beat" guarantee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

#### **§757. Fleet Prices**

A. Terms such as "fleet prices," "fleet sales," "suppliers prices," or other terms implying that retail individual customers will be afforded the same price and/or discount as multi-purchase commercial businesses shall not be used in advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

#### **§759. Bankruptcy/Liquidation Sale**

A. No licensee may willfully misrepresent the ownership of a business for the purpose of holding a liquidation sale, auction sale, or other sale which represents that the business is going out-of-business. A person who advertises a liquidation sale, auction sale, or going out-of-business sale shall state the correct name and permanent address of the owner of the business in the advertisement. A person may not conduct a sale advertised with the phrase "going out-of-business," "closing out," "shutting doors forever,"

"bankruptcy sale," "foreclosure," or "bankruptcy," or similar phrases or words indicating that an enterprise is ceasing business unless the business is closing its operations and follows the procedures required by Chapter 1, Part II, Title 51, Trade and Commerce, Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

**Family Impact Statement**

1. What effect will this Rule have on the stability of the family? The proposed Rule should have a positive effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will have no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will not affect the family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. What effect will this have on the ability of the family or local government to perform the function as contained in this proposed Rule? This Rule is designed to help the family to obtain the information and help needed to own their own automobile.

Interested persons may submit written comments until 4:30 p.m., October 10, 2007, to Lessie A. House, Executive Director, Louisiana Motor Vehicle Commission, 3519 12th Street, Metairie, LA 70002.

Lessie House  
Executive Director

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

**RULE TITLE: Advertising**

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

The proposed rule change will have no impact on costs or savings to state or local governmental units. This rule change is merely a simplification of existing advertising rules, incorporating into the administrative rules policies and interpretations which have been standard practice for many years.

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

The proposed rule change will have no impact on revenue collections of state or local governmental units.

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

The proposed rule change will not effect costs and/or economic benefits to directly affected persons or nongovernmental groups. The proposed rule change updates, clarifies and provides specificity to the existing language of the advertising rule.

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

Implementation of the proposed rule change will have no impact upon competition and employment.

Lessie House  
Executive Director  
0709#046

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Office of Financial Institutions**

Applications, Securities, General Provisions  
(LAC 10:XI.301, XV.503, and XVII.301)

In accordance with R.S. 49:950 et seq., of the Administrative Procedure Act, the Commissioner of the Office of Financial Institutions has approved for advertisement the repeal of three Sections of the Louisiana Administrative Code, LAC 10.XI.301, regarding Supervised Loan/Insurance Premium Financing License Application; LAC 10.XV.503, regarding Defunct Collection Agencies, and LAC 10.XVII.301, regarding Enforcement of the Fair Debt Collection Practices Act. This action is being effectuated because in the case of the LAC 10.XI.301, the statute pertaining to applications has been amended to streamline the application process, and in the cases of LAC 10.XV.503 and LAC 10.XVII.301, the statutes which provided the basis and rationale for their promulgation have been repealed. Thus these Sections are rendered obsolete and no longer necessary.

**Title 10**

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,  
INVESTMENT SECURITIES AND UCC**

**Part XI. Consumer Credit**

**Chapter 3. Supervised Loan/Insurance Premium  
Financing License**

**§301. Applications**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3550 and 9:3554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 17:578 (June 1991), repealed LR 33:

**Part XV. Other Regulated Entities**

**Chapter 5. Debt Collection Agencies**

**Subchapter A. Defunct Collection Agencies**

**§503. Disbursement of Security Monies**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3576.16 (C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 24:1083 (June 1998), repealed LR 33:

**Part XVII. Miscellaneous Provisions**

**Chapter 3. Enforcement of Federal Fair Debt  
Collection Practices Act**

**§301. General Provisions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 1112 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19:736 (June 1993), repealed LR 33:

### Family Impact Statement

The proposed amendments should not have any known or foreseeable impact on any family as defined by R.S. 49:972 or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

Interested persons may submit comments until 4:30 p.m., October 20, 2007, to Susan Rouprich, General Counsel, P.O. Box 94095, Baton Rouge, LA 70804-9095 or by hand delivery to 8660 United Plaza Blvd, 2nd Floor, Baton Rouge, LA 70809.

John Ducrest, CPA  
Commissioner

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Applications, Securities, General Provisions

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

There are no implementation costs (savings) to state or local governmental units associated with this rule change. This action is being effectuated because in the case of the LAC 10:XI. 301, the statute pertaining to applications has been amended to streamline the application process, and in the case of LAC 10:XV. 503 and LAC 10:XVII. 301, the statutes which provided the basis and rationale for their promulgation have been repealed. Thus, these rules are rendered obsolete and no longer necessary.

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

There will be no impact on revenues associated with the repeal of these rules.

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

There will be no costs or economic benefits to directly affected persons or non-governmental groups associated with this rule change.

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

There will be no effect on competition and employment associated with this rule change.

John Ducrest  
Commissioner  
0709#022

Robert E. Hosse  
Staff Director  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Dentistry

Dentistry  
(LAC 46:XXXIII.120, 306, 322, 505, 706, 1505,  
1506, 1507, 1703, 1705, 1709, 1711, and 1713)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry hereby amends LAC 46:XXXIII.120, 306, 505, 706, 1505, 1506, 1507, 1703, 1705, 1709, 1711, and 1713, and adopts §322. No preamble has been prepared. There will be no family impact in regard to issues set forth in R.S. 49:972.

### Title 46

## PROFESSIONAL AND OCCUPATIONAL STANDARDS

### Part XXXIII. Dental Health Profession

#### Chapter 1. General Provisions

#### §120. Temporary Licenses

A. Under R.S. 37:760(6), the board is authorized to issue licenses in conformity with the Louisiana Dental Practice Act. However, under R.S. 37:752(8), dentists and dental hygienists may obtain a temporary license without satisfying all licensing requirements of the Louisiana Dental Practice Act provided the applicant applies for a full license by providing satisfactory documentation that the applicant is duly licensed in another state in good standing and applies for licensure by credentials for the nearest scheduled board meeting. In order to protect the public and to avoid abuses of this exemption, the board shall not award a temporary license to any dentist under the provisions of R.S. 37:752(8). Under no circumstances shall a temporary license awarded to a dental hygienist be in effect for any period longer than 5 months. This Section does not prohibit the awarding of temporary licenses to dentists who are seeking exemptions under R.S. 37:752(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998), amended LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 33:

#### Chapter 3. Dentists

#### §306. Requirements of Applicants for Licensure by Credentials

A. - A.10. ...

11. if deemed necessary, has appeared for a personal interview before the board;

A.12. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR

23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 28:1777 (August 2002), LR 30:2305 (October 2004), LR 31:927 (April 2005), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 33:

### **§322. Expungement of Disciplinary Actions**

A. A dentist may apply for the expungement of a first time advertising violation provided:

1. a period of three years has elapsed from the date the consent decree was executed by the board president or order issued after a disciplinary hearing;

2. the dentist has not had any subsequent disciplinary actions of any kind taken against him by the board or any other licensing or certifying agency since the initial advertising violation in question;

3. has no disciplinary actions or investigations pending at the time of request;

4. the board will retain all records relative to the first advertising violation, and it may use same in connection with future disciplinary proceedings, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

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

## **Chapter 5. Dental Assistants**

### **§505. Expanded Duty Dental Assistant Certificate Confirmation Fee and Reconfirmations; Display of Certificate**

A. ...

B. All expanded duty dental assistants are required to display their certificate confirmations in a conspicuous place to be seen by all patients seen by the expanded duty dental assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:206 (February 1993), amended LR 33:

## **Chapter 7. Dental Hygienists**

### **§706. Requirements of Applicants for Licensure by Credentials (Hygienists)**

A. - A.10. ...

11. if deemed necessary, has appeared for a personal interview before the board;

A.12. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R. S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:737 (July 1992), amended LR 21:570 (June 1995), LR 22:23 (January 1996), LR 24:1117 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 26:1613 (August 2000), repromulgated LR 27:1894 (November 2001), amended LR 28:1778 (August 2002), LR 33:846 (May 2007), LR 33:

## **Chapter 15. Conscious Sedation with Parenteral Drugs**

### **§1505. Conscious Sedation with Parenteral Drugs**

A. The board shall issue two types of conscious sedation with parenteral drugs permits.

1. A "limited" permit will be issued to those dentists who qualify for such permit by meeting the minimal educational requirements specified in §1509. This permit will be limited to the administration of parenteral drugs via

intramuscular (IM), submucosal (SM), intranasal (IN), and subcutaneous (SC) routes only.

2. A "full" permit will be issued to those dentists who qualify for such permit by meeting all minimal educational requirements specified in §1509.

B. In order to receive authorization the dentist must show and produce evidence that he/she complies with the following provisions:

1. completion of an advanced training program beyond the pre-doctoral dental school level accredited by the Commission on Dental Accreditation of the American Dental Association which includes anesthesiology and related academic subjects as required in §1505 of this Chapter; or

2. utilization of the services of a trained medical doctor, doctor of osteopathy trained in conscious sedation with parenteral drugs, certified registered nurse anesthetist, a dentist who has successfully completed a program consistent with Part II of the American Dental Association Guidelines on Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, or a qualified oral and maxillofacial surgeon provided that said doctor or certified registered nurse anesthetist must remain on the premises of the dental facility until any patient given parenteral drugs is sufficiently recovered; or

3. successful completion of a board-approved continuing education course as described in Part III of the American Dental Association Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry provided the applicant has held a license to practice dentistry for a minimum of three years. The board has determined that 80 hours of clinical airway management would be a minimum to achieve competency as described in Part III of the previously mentioned guidelines.

C. In addition to the requirements of Subsection B of this Part the dentist must provide proof of current certification in cardiopulmonary resuscitation, course "Advanced Cardiac Life Support" as defined by the American Heart Association, or its equivalent.

D. Provide proof of current certification in Pediatric Advanced Life Support (PALS) when administering sedation to patients under the age of 13.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 22:1216 (December 1996), LR 33:

### **§1506. Conscious Sedation with Enteral Drugs**

A. - D. ...

E. For adult patients, the licensee must provide proof of current certification in Advanced Cardiac Life Support as defined by the American Heart Association or is equivalent. For pediatric patients, the licensee must provide proof of current certification in Pediatric Life Support (PALS), or its equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8) and R.S. 37:793

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 30:2306 (October 2004), amended LR 32:244 (February 2006), LR 33:847 (May 2007), LR 33:

### **§1507. General Anesthesia/Deep Sedation**

A. When general anesthesia or deep sedation is administered, the provisions of this Subsection apply:

1. no dentist shall administer general anesthesia or deep sedation unless said dentist has received authorization by the board evidenced by receipt of a permit from the board;

2. in order to receive authorization the dentist must show and produce evidence that he complies with the following provisions:

a. completion of an oral and maxillofacial surgery training program accredited by the Commission on Dental Accreditation of the American Dental Association which includes anesthesiology and related academic subjects as required in §1509 of this Chapter; or successful completion of a program which complies with Part II of the American Dental Association Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dental Education at the Advanced level;

b. provide proof of current certification in the cardiopulmonary resuscitation course "Advanced Cardiac Life Support" as defined by the American Heart Association, or its equivalent;

c. provide proof of current certification in Pediatric Advanced Life Support (PALS) when administering sedation to patients under the age of 13.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 32:2057 (November 2006), LR 33:

## **Chapter 17. Licensure Examinations**

### **§1703. Candidate's Manual for the Dental Licensure Examination of the Louisiana State Board of Dentistry**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1118 (June 1998), amended LR 32:245 (February 2006), LR 33:

### **§1705. Candidate's Manual for the Dental Hygiene Licensure Examination of the Louisiana State Board of Dentistry**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1118 (June 1998), amended LR 32:245 (February 2006), LR 33:

### **§1709. Examination of Dentists**

A. Any person desiring to be licensed as a dentist shall apply to the Council of Interstate Testing Agencies and shall verify the information required on the application by oath. The application shall include two recent photographs. There shall be an application fee set by the Council of Interstate Testing Agencies. There shall also be an examination fee set by the Louisiana State University School of Dentistry.

B. - B.4. ...

C. To be licensed as a dentist in this state, an applicant must successfully complete the clinical licensing examination as administered by the Council of Interstate Testing Agencies (CITA), Central Regional Dental Testing

Service (CRDTS), Northeast Regional Board (NERB), Southern Regional Testing Agency (SRTA), American Dental Examination (ADEX), or Western Regional Examining Board (WREB).

D. The board is expressly authorized to utilize the services of other licensed dentists to facilitate the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:2513 (December 2002), LR 33:

### **§1711. Examination of Dental Hygienists**

A. Any person desiring to be licensed as a dental hygienist shall apply to the Council of Interstate Testing Agencies and shall verify the information required on the application by oath. The application shall include two recent photographs of the applicant. There shall be a nonrefundable application fee set by the Council of Interstate Testing Agencies, and a clinical fee payable to the Louisiana State University School of Dentistry which shall not exceed \$100 and which may be refundable if the applicant is found ineligible to take the examination.

B. - B.4. ...

C. To be licensed as a dental hygienist in this state, an applicant must successfully complete the following:

1. a written examination on the jurisprudence and ethics of the state regulating the practice of dental hygiene;

2. a practical or clinical examination as administered by the Council of Interstate Testing Agencies (CITA), Central Regional Dental Testing Service (CRDTS), Northeast Regional Board (NERB), Southern Regional Testing Agency (SRTA), American Dental Examination (ADEX), or Western Regional Examining Board (WREB) which shall test the competency of the applicant's ability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:1779 (August 2002), LR 33:

### **§1713. Examination Application Deadlines**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:1779 (August 2002), repealed LR 33:

Interested persons may submit written comments on these proposed Rule changes to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden  
Executive Director

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

**RULE TITLE: Dentistry**

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

There will be a one-time cost of \$500 in FY 07-08 for publication of the proposed rule in the *Louisiana Register* and in a mass mailing which is sent to all licensees every summer.

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

The proposed rules are not anticipated to increase the revenue collections of the board.

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

The proposed rule will require Dentists (approximately 100) who are not currently certified in Advanced Cardiac Life Support or Pediatric Advanced Life Support to incur a cost of approximately \$400 to become certified in those cardiopulmonary resuscitation courses in order to administer sedation to patients. There are no other associated costs for dentists and hygienists. However, the proposed rule will allow the board to replace the state clinical licensing examination with a clinical licensing examination to be administered by the Council of Interstate Testing Agencies. This will result in an increase of approximately \$450 to dentists taking the examination (from \$950 to \$1,400). Additionally, the board's operating expenses will decrease by an amount that is similar to the cost to administer the test (budget neutral). This will also ensure them greater mobility throughout the United States during their careers.

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

There is no estimated effect on competition and employment.

C. Barry Ogden  
Executive Director  
0709#004

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Continuing Education—Nursing Practice  
(LAC 46:XLVII.3335)**

The Louisiana State Board of Nursing proposes to amend LAC 46:XLVII.3335, Continuing Education—Nursing Practice in accordance with R.S. 37:918, R.S. 37:919 and R.S. 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The proposed Rule relative to Continuing Education—Nursing Practice revises the unit of measurement (contact hour) for participation in an educational activity which meets the board's continuing education criteria from 50 minute to 60 minute time period for 1 contact hour. This change is being recommended to be consistent with the American Nurses Credentialing Center's (ANCC) Commission on Accreditation's criteria which uses 60 minute unit of measurement for awarding contact hour credit effective January 1, 2007. This change is also consistent with the physician's regulatory group, the Accreditation Council for Continuing Medical Education (ACCME).

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLVII. Nurses**

**Subpart 2. Registered Nurses**

**§3335. Continuing Education—Nursing Practice**

A. Authority of the Louisiana State Board of Nursing (board). The board derives its authority to establish the requirement for evidence of activities which contribute to continued competence for relicensure to practice as a registered nurse from R.S. 37:911, R.S. 37:918(4) and (12), and R.S. 37:920.E (1), (2), and (4).

B. Definitions for the Purposes of §3335

*Accredited Post Secondary Institution*—a degree granting institution that conducts a program preparing registered nurses and awards degrees at any or all of the following levels: associates, bachelors, masters, and doctoral, and which is accredited by a nationally recognized accrediting body.

*Approved Offering*—a continuing education offering provided by an approved provider.

*Approved Provider*—individual, partnership, corporation, association, organization, organized health care system, educational institution, or governmental agency which has been approved by the board, accredited by the American Nurses Credentialing Center's Commission on Accreditation (ANCC), or approved to provide nursing continuing education by an ANCC accredited approver.

*Board-Approved Contact Hours*—contact hours which have been approved by the board or through the ANCC.

*Clinical Competence*—the possession and use of professional knowledge and skills in relation to direct patient/client care.

*Certifying Body*—an agency qualified to evaluate an individual, an institution, or an educational program and attesting that certain predetermined standards for safe and ethical practice of the profession or service are met.

*Competence*—the possession of professional knowledge and skills necessary to practice or function at the legally qualified level.

*Contact Hour*—a unit of measurement that describes 60 minutes of participation in an educational activity which meets the board's continuing education criteria.

*Continued Competence*—the possession and maintenance of current professional knowledge and skills.

*Continuing Education*—a planned educational activity designed to update the knowledge and skills of the participant, beyond the entry level, or to prepare for practice in a different area of nursing.

*Continuing Education Activities*—

a. *Course*—an intense, planned educational activity, presented over time, which includes content related to a specific subject for which academic credit or contact hours are awarded

b. *Offering*—a continuing education activity of short duration for which a minimum of one contact hour is awarded.

c. *Program*—a series of offerings with a common theme and common overall goals. Offerings may occur consecutively or concurrently.

*Criterion*—a standard, rule, or test by which something can be judged, measured, or valued.

*Current*—occurring in the present time; contemporary.

*Documentation of Nursing Practice*—the presence of written evidence of nursing practice.

*Examination*—an exercise designed to evaluate progress, qualifications, or knowledge.

*Full-Time Nursing Practice*—a minimum of 1,600 hours, per year, of employment as a registered nurse or full-time equivalency requirements set forth by the employer. For self-employed, home health, and contract nurses, a minimum of 1,600 documented nursing practice hours, exclusive of travel, per calendar year, is accepted as full-time employment. Documentation of practice hours shall include paycheck stubs and a log record of actual hours worked.

*Inactive Licensure Status*—is recorded when the RN requests inactive licensure status rather than renew a current RN license.

*Lapsed License*—delinquent licensure status due to failure to renew or to request inactive licensure status.

*National Council Licensure Examination for Registered Nurses (NCLEX-RN)*—the examination approved by the board and administered to measure competency for initial licensure as a registered nurse.

*Nursing Practice*—the performance, with or without compensation, by an individual licensed by the board as a registered nurse, of functions requiring specialized knowledge and skill derived from the biological, physical, and behavioral sciences [Nurse Practice Act, R.S. 37:913 (13) and (14)], which includes, but is not limited to, direct patient care, supervision, teaching, administration, and other positions which require use of nursing knowledge, judgment, and skill.

*Part-Time Nursing Practice*—a minimum of 160 hours employment as a registered nurse, but less than full-time employment within the one-year audit period.

*Practice Hour*—60 minutes of nursing practice.

*Refresher Course*—instruction designed to update professional knowledge and skills to the legally qualified level.

*Requirement*—something needed or demanded by virtue of a law, regulation, etc.

C. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:911, R.S. 37:918(4), (12), and R.S. 37:920.E.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 16:1058 (December 1990), amended LR 21:267 (March 1995), LR 21:804 (August 1995), LR 24:1293 (July 1998), LR 25:514 (March 1999), LR 26:83 (January 2000), LR 27:729 (May 2001), LR 33:

#### **Family Impact Statement**

In compliance with R.S. 49:953 and 974, the following Family Impact Statement of the proposed amendments to rules is provided. There should be no adverse effect on the stability of the family; the authority and rights of parents regarding the education and supervision of their children; or the ability of the family or a local government to perform the function as contained in the proposed Rule amendments.

Interested persons may submit written comments on the proposed Rule until 5 p.m., October 10, 2007 to Barbara L. Morvant, Executive Director, 5207 Essen Lane, Suite 6, Baton Rouge, LA 70809.

Barbara L. Morvant  
Executive Director

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

#### **RULE TITLE: Continuing Education—Nursing Practice**

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

There is no anticipated increase or decrease 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 rule relative to Continuing Education for Nursing Practice revises the unit of measurement (contact hour) for participation in an educational activity which meets the board's continuing education criteria from 50 minute to 60 minute time period for 1 contact hour. The change is being recommended to be consistent with the American Nurses Credentialing Center's (ANCC) Commission on contact hour credit effective January 1, 2007. This change is also consistent with the physician's regulatory group, the Accreditation Council for Continuing Medical Education (ACCME).

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

There is no estimated effect on competition and employment.

Barbara L. Morvant  
Executive Director  
0709#017

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

#### **NOTICE OF INTENT**

#### **Department of Health and Hospitals Board of Embalmers and Funeral Directors**

Embalmers and Funeral Directors  
(LAC 46:XXXVII.111, 701, 901, 903,  
1105, 1109, 1111, 1703, 2301, and 2305)

The Board of Embalmers and Funeral Directors proposes to amend LAC 46:XXXVII, Chapters 1, 7, 9, 11, 17, and 23 pursuant to the authority granted by R.S. 37:840 and in accordance with the provisions of the Administrative Procedure Act, R.S. 40:950 et seq. The board finds it necessary to revise, amend and/or add provisions of the rules, regulations and procedures relative to providing useful

guidance and information for the purpose of improving regulatory compliance and to enhance understanding of these changes.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XXXVII. Embalmers and Funeral Directors**

#### **Chapter 1. General Provisions**

##### **§111. Mandatory Disclosure**

A. - F. ...

G. When money is made available to the funeral home over and above the amount owed for merchandise and services under no circumstances should the excess funds be utilized for any funeral home operating expenses and arrangements shall be made within a 30 day period for refund of same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 5:280 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 17:1101 (November 1991), LR 30:2818 (December 2004), LR 33:

#### **Chapter 7. License**

##### **§701. Renewal and Reinstatement**

A. - B. ...

C. When the holder of a combination or funeral director license has failed to renew his license on or before December 31 of each year, said license shall lapse and a new application and fee must be submitted. In any event, no license will be reinstated without a payment of all fees delinquent from date of lapse to date of reinstatement. Applicant may also be required to take a written Louisiana laws and regulations test.

D. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended December 1970, amended LR 11:688 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2821 (December 2004), LR 33:

#### **Chapter 9. Internship**

##### **§901. Requirements for Combination License**

A. - A.7. ...

8. The internship may be registered and the intern receive up to six months credit prior to matriculation in an accredited college of mortuary science (funeral service).

9. Any internship shall be considered stale/null and void and unavailable for consideration after the passage of 10 years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 5:277 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:10 (January 1989), LR 16:769 (September 1990), LR 30:2823 (December 2004), LR 33:

##### **§903. Requirements for Funeral Director License**

A. - A.9. ...

10. Any internship shall be considered stale/null and void and unavailable for consideration after the passage of 10 years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended March 1974, promulgated LR 5:278 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:10 (January 1980), LR 19:744 (June 1993), LR 30:2823 (December 2004), LR 33:

#### **Chapter 11. Funeral Establishments**

##### **§1105. Charge of Establishment**

A. All funeral establishments shall have a licensed funeral director designated as the manager of the facility and in charge of the day to day operations of the funeral home. The manager shall be available to perform all of the routine functions of the licensed establishment as provided within the provisions of R.S. Title 37, Chapter 10, Section 831 et seq., within normal business hours. The manager shall personally carry out his responsibilities as defined within paragraph 35 of Section 831 and/or as provided within the statute; and, to adequately serve the public, the manager shall reside within a 40 mile radius from the funeral establishment which the licensee is to manage.

B. In order to be designated as a manager, the licensee shall have a license issued by this board and have been actively engaged in the practice of funeral directing and/or the science of embalming for at least five years. (Any one with less than five years experience who changes positions is not automatically grandfathered so as to be allowed to continue as manager of another establishment.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 5:278 (September 1979), amended LR 11:946 (October 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:11 (January 1989), LR 30:2824 (December 2004), LR 33:

##### **§1109. Closure of a Funeral Establishment**

A. Upon the closure of a funeral establishment the license shall be returned to the board within a period of 15 days; any and all signs designating the building as a funeral establishment shall be removed or fully covered within 15 days; and, the telephone for the funeral establishment shall be disconnected within 15 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors LR 33:

##### **§1111. Sign(s) on Vacant Lots**

A. Within one year of the erection of a sign stating "Opening Soon," "Soon to Open," etc., there shall be on going construction or completion shall be anticipated within one year or the sign shall be removed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 33:

**Chapter 17. Prepaid Funeral Services or Merchandise §1703. Instructions Need to Change Cash Deposited in a Pre-Need Account**

A. In the event a funeral establishment desires to transfer cash deposited in a pre-need account through their firm the following steps shall be adhered to:

1. written notification shall be sent via certified mail to each consumer advising of the proposed change in funding for their pre-need arrangement and requesting authorization for said transfer;

2. upon receipt of written authorization for transfer from consumer transfer can take place;

3. if requested, pre-need cash deposited in a pre-need account shall be refunded to those who request same; or

4. if authorization for transfer is not given/received for any reason, the funeral establishment shall maintain funds on deposit in the bank or savings and loan where originally deposited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 33:

**Chapter 23. Injunction Proceedings; Penalty; Continuance of Hearings; Release of Witness from Subpoena**

**§2301. Injunction Proceedings**

A. ...

B. The board may also bring legal proceedings to enjoin a person or crematory violating the rules and regulations of this board from operating a crematory retort or a crematory, as may be the case, until such person and/or crematory complies with the requirements of these rules and regulations. The injunction, if granted, shall not be suspended by bond or appeal and the person or crematory enjoined shall be cast for attorney's fees and court costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 5:280 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2828 (December 2004), LR 33:

**§2305. Continuance of Hearings; Release of Witness from Subpoena**

A. Based on circumstances presented, the president of the board shall be authorized to grant a continuance of formal hearings or informal meetings scheduled by the board and to release an individual from the obligation to appear as ordered by the subpoena authority of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 33:

**Family Impact Statement**

The proposed Rule of the Louisiana State Board of Embalmers and Funeral Directors should not have any

known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

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

Interested persons may submit written comments to Dawn Scardino, Executive Director, Louisiana State Board of Embalmers and Funeral Directors, P.O. Box 8757, Metairie, LA 70011-8757. Written comments must be submitted to and received by the board within 30 days of this notice. A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Dawn Scardino  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES  
RULE TITLE: Embalmers and Funeral Directors**

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

The board will spend approximately \$9,000 in FY 08 in printing costs to implement these rule changes/additions. This will cover cost of publications in the *Louisiana Register* and the printing and mailing of revised books to all funeral establishments, crematories, and licensees.

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

The proposed rule changes/additions will have no effect on revenue collections of state or on governmental groups.

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

The proposed rule changes/additions are being made in many instances to add further protection for the consumers who do business with the funeral establishments (approximately 403) in the state. A restriction requiring embalmer/funeral director interns to complete their internship within six months of completing mortuary science classes has been removed and interns who have not obtained a license within ten years of completing the same will be required to re-serve an internship due to changes in the profession which take place over this period of time. Management requirements for funeral establishments are being clarified in order to insure that each funeral home is properly operated.

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

These proposed changes/additions are not expected to have a significant effect on competition and/or employment. One or two interns may be affected in a five to ten year span if these individuals have not obtained their license within ten years of completing their initial internship. This would cause them to

re-serve an internship during which they would have to submit twelve months of report forms to the board's office advising of the cases on which they have worked.

Dawn P. Scardino  
Executive Director  
0709#077

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Licensed Professional Counselors Board of Examiners

#### Definitions and Requirements for Licensure (LAC 46:LX.503 and 705)

In accordance with R.S. 49:950 et seq., of the Louisiana Administrative Procedure Act, the Licensed Professional Counselors Board of Examiners hereby proposes to amend its existing rules and regulations relative to the scope of practice by Licensed Professional Counselors, as well as the education and clinical supervision requirements for Counselor Interns. The majority of these revisions are necessary to comply with Act 206 of 2007, and the remainder are proposed to clarify existing rules.

The Licensed Professional Counselors Board proposes to revise §503 "Definitions for Licensed Professional Counselors," and §705, "Supervised Experience of Counselor Interns," relative to those changes set forth above.

The full text of this proposed Rule may be viewed in the Emergency Rule portion of this edition of the *Louisiana Register*.

#### Family Impact Statement

The proposed Rule of this board should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

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

Interested persons may submit written comments to Gloria Bockrath, Board Chair, Licensed Professional Counselors Board of Examiners, 8631 Summa Avenue, Baton Rouge, LA, 70809 from September 20, 2007, until September 30, 2007. A public hearing on this proposed Rule will be held on Thursday, October 25, 2007, at 5:30 p.m., McNeese State University, Burton Business Center, Burton Business Center Conference Room, 450 Lawton Dr, Lake Charles, LA.

Gloria Bockrath, Ph.D.  
Chairman

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Definitions and Requirements for Licensure

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

There will be a one time implementation cost in FY 07/08 that includes the cost of promulgating the rule (\$1,242), legal fees (\$250), forms (\$40), and staff time (\$400). The cost will be absorbed within the budget of the Licensed Professional Counselors (LPC) Board. There will be no impact to other state or local governmental units.

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

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

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

There will be no additional cost to directly affected persons or non-governmental groups. However, this rule will allow Licensed Professional Counselors to be employed in Medicare programs by adding "Psychotherapy" to the definitions of LPCs.

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

Based on recent interpretation of Medicare rules many LPCs have become unemployed and this new rule will allow LPCs to compete with other licensed mental health professionals.

Eddy Boeneke  
Executive Director  
0709#026

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Insurance Office of the Commissioner

#### Regulation 69—Year 2000 Exclusions (LAC 37:XIII.Chapter 87)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to repeal Regulation 69—Year 2000 Exclusions.

The purpose of Regulation 69 was to set parameters on the use of Year 2000 (Y2K) exclusions and endorsements in order to protect the public interest and to assure the continued viability of the insurance market in this state. Although Regulation 69 was to provide precautionary measures in the event of a Y2K problem, the need for such protection to address coverage issues related to any Y2K problem no longer exists. Therefore, Regulation 69 is being repealed in its entirety.

**Title 37  
INSURANCE**

**Part XIII. Regulations**

**Chapter 87. Regulation 69—Year 2000 Exclusions**

**Subchapter A. General Provisions**

**§8701. Authority**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1256 (July 1999), repealed LR 33:

**§8703. Purpose**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1256 (July 1999), repealed LR 33:

**§8705. Scope and Applicability**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, R.S. 22:941, R.S. 22:1262 and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner LR 25:1256 (July 1999), amended LR 26:86 (January 2000), repealed LR 33:

**§8707. Severability**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1256 (July 1999), repealed LR 33:

**§8709. Definitions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1256 (July 1999), amended LR 26:86 (January 2000), repealed LR 33:

**§8711. Forms Approval**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:620E.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1257 (July 1999), repealed LR 33:

**Subchapter B. Admitted Insurers**

**§8713. Underwriting Standards**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3, R.S. 22:1211 et seq., R.S. 22:941, R.S. 22:1262 and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1257 (July 1999), repromulgated LR 26:86 (January 2000), repealed LR 33:

**§8715. Monitoring of Market Conduct**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3, R.S. 22:1211 et seq., R.S. 22:941, R.S. 22:1215, R.S. 22:1262, R.S. 22:1262.1. R.S. 22:1301 and R.S. 22:1404.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1257 (July 1999), amended LR 26:86 (January 2000), repealed LR 33:

**§8717. Representations and Warranties**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, R.S. 22:619 and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999), amended LR 27:87 (January 2000), repealed LR 33:

**§8719. Notice**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3 and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999), amended LR 26:87 (January 2000), repealed LR 33:

**§8721. Exemptions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999), amended LR 26:87 (January 2000), repealed LR 33:

**Subchapter C. Surplus Lines Insurers**

**§8723. Mandatory Policyholder Notice**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3 and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:87 (January 2000), repealed LR 33:

**§8725. Claims Notice**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3 and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:87 (January 2000), repealed LR 33:

**§8727. Issuance of Notices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3 and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:87 (January 2000), repealed LR 33:

**Subchapter D. Administrative Actions**

**§8729. Hearings**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3, R.S. 22:1211 et seq., and R.S. 22:1457.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:88 (January 2000), repealed LR 33:

**§8731. Penalties**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3, R.S. 22:1211 et seq., and R.S. 22:1457.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:88 (January 2000), repealed LR 33:

### Family Impact Statement

The proposed amendments to LAC 37:XIII.Chapter 87 regarding Year 2000 Exclusions should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

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

A public hearing on the proposed repeal of Regulation 69 will be held on Friday, October 26, 2007, at 1:30 p.m., in the Poydras Hearing Room of the Louisiana Department of Insurance (Poydras Building), 1702 North Third Street, Baton Rouge, LA. Interested persons who wish to make comments may do so at the public hearing or by writing to Carol Fowler-Guidry, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214. Comments will be accepted through the close of business, 4:30 p.m., October 26, 2007. No preamble concerning the proposed regulation is available.

James J. Donelon  
Commissioner

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Regulation 69—Year 2000 Exclusions

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

DOI does not expect any implementation costs as a result of the adoption of this regulation. DOI seeks to repeal existing Regulation 69.

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

There will be no increase or decrease in revenue as a result of repealing Regulation 69.

#### 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-government groups as a result of the repeal of this regulation.

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

The repeal of this regulation should have no impact upon competition and employment in the state.

Chad M. Brown  
Deputy Commissioner  
0709#002

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Insurance Office of the Commissioner

#### Regulation 82—Insure Louisiana Incentive Program (LAC 37:XIII.Chapter 123)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to promulgate Regulation 82 regarding the Insure Louisiana Incentive Program.

Due to the catastrophic losses caused by Hurricane Katrina and Hurricane Rita, many insurers have reduced their participation in the voluntary market for residential and commercial property insurance. This reduction has led to competitive pressure on insurance rates, and unaffordable and unavailable insurance for property owners. As a result, many property owners may be forced to seek coverage through the Louisiana Citizens Property Insurance Corporation for their property insurance needs thereby increasing Citizens exposure to increased deficits and assessments.

In an effort to attract new insurers to this state and to provide adequate and affordable insurance to property owners of this state, the Insure Louisiana Incentive Program was enacted through the passage of Act 447 of the 2007 Regular Session of the Louisiana Legislature. The purpose of the Insure Louisiana Incentive Program is to encourage insurers to participate in the voluntary property insurance market for the purposes of increasing the availability of property insurance and competitive pressure on insurance rates, and reducing the volume of business written by the Louisiana Citizens Property Insurance Corporation. Regulation 82 sets forth standards and procedures relative to a property insurer's participation in the Insure Louisiana Incentive Program. Through cooperative endeavor agreements, insurers participating in the program may be awarded matching grant funds in order to achieve the requirements of Act 447. Regulation 82 further specifies these requirements and conditions thereof by qualified property insurers.

As a result of the impact of Hurricane Katrina and Hurricane Rita, it is critical that property owners have affordable and adequate insurance coverage in order to maintain the viability of this state's insurance market and to avoid any future perils that may arise from the upcoming hurricane season. Regulation 82, therefore, is being promulgated to accomplish this purpose.

#### Title 37

#### INSURANCE

#### PART XIII. Regulations

#### Chapter 123. Regulation 82—Insure Louisiana Incentive Program

#### §12301. Purpose

A. The purpose and intent of Regulation 82 is to exercise the authority and carry out the duties and responsibilities of

the Commissioner of Insurance for implementation and regulation of the Insure Louisiana Incentive Program, hereinafter referred to as the "Incentive Program." Regulation 82 sets forth rules and procedural requirements which the Commissioner of Insurance deems necessary for participation in the Incentive Program by qualified property insurers.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

### **§12303. Authority**

A. Regulation 82 is promulgated pursuant to the authority and responsibility delegated to the Commissioner of Insurance under R.S. 22:3301 through 3311 and pursuant to the general powers granted by law to the commissioner and the Department of Insurance.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

### **§12305. Applicability and Scope**

A. Regulation 82 applies to all property insurers with respect to their qualification and participation in the Incentive Program.

B. Regulation 82 governs all aspects of the Incentive Program including, but not limited to, the application process for grants, the qualifications of grantees, the award of grants, the use of grant funds, the reporting requirements for grantees, the requirements for matching capital funds, the requirements for minimum capital and surplus, the requirements for earned capital and other regulation and administration of the Incentive Program.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

### **§12307. Definitions**

A. For the purposes of Regulation 82, the following terms shall have the meaning or definition as indicated herein.

*Approved Unauthorized Insurer*—an insurer without a certificate of authority, or otherwise qualified under the provisions of Title 22, and which is on the list of approved unauthorized insurers under the provisions of R.S. 22:1262.1, and from which a licensed surplus lines broker may procure insurance under the provisions of R.S. 22:1257.

*Commissioner*—the Commissioner of Insurance of the state of Louisiana.

*Department*—the Department of Insurance of the state of Louisiana.

*Domestic Insurer*—an insurer formed under the laws of the state of Louisiana that has been authorized by the department to sell insurance products in the state of Louisiana.

*Grantee*—a property insurer to whom a grant is made from the Incentive Program Fund.

*Incentive Program (where capitalized)*—the Insure Louisiana Incentive Program as created, authorized and administered pursuant to R.S. 22:3301 et seq., and Regulation 82.

*Incentive Program Fund (where capitalized)*—the Insure Louisiana Incentive Program Fund established and created pursuant to R.S. 22:3311 and Regulation 82.

*Net Written Premiums*—the total premiums, exclusive of assessments and other charges, paid by policyholders to an insurer for policies that comply with Regulation 82, minus any return premiums or other premium credits due policyholders, as defined in R.S. 22:3309(A).

*Non-Admitted Insurer*—an insurer that has not been licensed by the department to sell insurance products in the state of Louisiana.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

### **§12309. Matching Capital Grants**

A. From funds appropriated by the legislature for the Incentive Program Fund established and created in the state treasury under R.S. 22:3311, the commissioner may grant matching capital funds to qualified property insurers in accordance with the requirements of R.S. 22:3301 through 3311 and Regulation 82.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

### **§12311. Public Invitation for Grant Applications**

A. Pursuant to R.S. 22:3301 et seq., and Regulation 82, the commissioner shall issue an initial public invitation to property insurers to submit applications for grants under the Incentive Program.

B. The invitation shall be published for at least a 30-day period on the department's web site and in state and national insurance journals and publications as the commissioner deems appropriate.

C. The invitation shall describe the Incentive Program and provide general information about the grant application process.

D. The invitation shall set a deadline for receipt of grant applications. All grant applications should be submitted to the department either by certified mail, return receipt requested, or actual delivery by a commercial interstate courier. Failure to timely submit a grant application may render the insurer ineligible to participate in the Incentive Program. However, for good cause shown, the commissioner may extend the deadline and consider applications received after the deadline or give an insurer the opportunity to cure a non-substantive deficiency in the application.

E. In the event that all monies in the Incentive Program Fund are not allocated in response to the first invitation, the commissioner shall issue a second invitation for grant applications in the form and pursuant to the procedures utilized for the first invitation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

### **§12313. Applications**

A. The department shall prepare an application form to be fully completed by grant applicants. The application form may be revised by the department as it deems appropriate.

B. The grant application shall require the property insurer to designate a point of contact with a telephone number and physical address to represent the property insurer on all matters pertaining to the grant process and the Incentive Program.

C. The grant application shall be filed contemporaneously with the application for licensure with the department by a non-admitted insurer. The application for licensure expresses the applicant's intent to become licensed in this state and, if specifically requested in writing by the grant applicant in the application for licensure, will be processed contingent upon approval of the allocation of a grant award.

D. Only fully completed grant applications or those deemed acceptable by the commissioner shall be considered for a grant award.

E. The grant application, whether completed by an admitted or non-admitted insurer, shall be submitted to the department's Office of Financial Solvency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

#### **§12315. Qualifications for Applying for Grant Funds**

A. Minimum Solvency Requirements. Grants shall be made only to property insurers who initially satisfy and thereafter maintain the following minimum solvency requirements:

1. capital and surplus in an amount not less than \$25 million;
2. A.M. Best rating of B++ or better or an equivalent rating by a nationally recognized rating service;
3. risk-based capital ratio of 500 percent; and
4. sufficient reinsurance to demonstrate that its reinsurance program is sufficient for the amount of business to be written pursuant to the Incentive Program.

B. Certificate of Authority.

1. A property insurer must have an existing certificate of authority in Louisiana for the line or lines of insurance which the insurer applicant will write pursuant to the Incentive Program or documentation that an application for such licensure has been filed with the Company Licensing Division of the department contemporaneous with the filing of the grant application.

C. Satisfactory Prior Experience.

1. Grants shall be made only to property insurers with satisfactory prior experience in writing property insurance or to new property insurers whose management has satisfactory experience in property insurance. The grant application shall accurately disclose the prior experience of property insurers and their management. The commissioner may request additional information from the applicant insurer and conduct such investigation of prior experience as the commissioner deems appropriate.

2. The commissioner shall determine whether an applicant insurer has adequate or satisfactory prior experience.

D. Other Requirements

1. Applicant shall maintain premium to surplus ratio no greater than 4 to 1 pursuant to R.S. 22:891.1.A.

2. Applicant shall not insure more than 10 percent of its surplus in any one risk pursuant to R.S. 22:1470.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

#### **§12317. Award and Allocation of Grants**

A. Subject to the requirements of this Section, the commissioner shall award and allocate grants among qualified property insurers who have applied for grants as the commissioner deems appropriate to carry out the purpose and intent of the Incentive Program. The commissioner has the discretion to create an advisory committee to assist in the analysis of grant applications. If created, the advisory committee will be composed of up to seven members, designated to serve thereon by the commissioner.

B. The factors considered in awarding grants shall include, but are not limited to, the following:

1. the financial strength and satisfactory prior experience of the applicant;
2. the ability of the applicant to invest new capital and to comply with the other requirements of the grant;
3. the potential of the applicant for providing property insurance as required by the Incentive Program at reasonable and competitive costs, particularly for property owners in the Louisiana parishes included in the federal Gulf Opportunity Zone Act of 2005. The current 37 parishes in the Gulf Opportunity Zone are Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, West Baton Rouge, and West Feliciana. These parishes may be subject to change by subsequent legislation;
4. the marketing and claims handling capability and experience of the applicant, and particularly its ability to market property insurance in areas affected by Hurricane Katrina and Hurricane Rita and to handle future claims that may arise;

5. the applicant's longevity in the Incentive Program including a statement or plan of operation by the applicant demonstrating its intent to remain in this state following the completion of the Incentive Program;

6. the current licensure of the applicant where preference and priority will be given to those admitted insurers that are currently licensed to do business in this state for the line or lines of business that are the subject of the grant; and

7. any other factors that the commissioner deems applicable, relevant and appropriate in carrying out the purpose and intent of the Incentive Program.

C. For grant applications in response to the initial invitation, the commissioner shall not allocate individual grants less than \$2 million nor in excess of \$10 million.

D. For the initial allocation of grants only, the commissioner shall allocate at least 20 percent of the total amount available for grants to domestic insurers unless the commissioner has not received sufficient applications from qualified domestic insurers to allocate such sum.

E. If the commissioner issues a second invitation for grant application, the commissioner shall not allocate

individual grants less than \$2 million nor in excess of \$10 million. Insurers who have been allocated a grant in response to the first invitation may apply for and receive an additional grant, provided the total of the grants to an insurer does not exceed \$10 million.

F. In no event shall the total amount of the grant to an insurer exceed 20 percent of that insurer's capital and surplus as reported to and verified by the department.

G. Prior to the award of a grant, such grant shall be subject to the review and approval of the Joint Legislative Committee on the Budget. The commissioner shall provide written notice to the committee of the grant awards that have been approved. Upon written approval by the committee, the commissioner will be authorized to award the grant and deliver the amount of the grant to the grantee from monies in the Incentive Program Fund.

H. In the event that monies remain in the Incentive Program Fund after allocations pursuant to the second invitation, the commissioner shall cause all remaining monies to be returned to the state general fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

#### **§12319. Authorized Insurers**

A. A non-admitted insurer, including an approved unauthorized insurer, may apply for a grant, provided that the non-admitted insurer shall, contemporaneously with the grant application, file an application for licensure with the department for the line or lines of insurance for which the non-admitted insurer, including an approved unauthorized insurer, must be authorized and licensed to write for a grant award. If specifically requested in writing by the grant applicant in the application for licensure, such application will be processed contingent upon approval of a grant award.

B. A non-admitted insurer, including an approved unauthorized insurer, must become admitted and licensed to do business in Louisiana before it may actually receive grant funding.

C. If the non-admitted insurer does not apply timely to be admitted or subsequently is not approved as an admitted and licensed insurer, the non-admitted insurer shall not be entitled to receive a grant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

#### **§12321. Matching Capital Requirements**

A. To be eligible for a grant, the insurer shall make a commitment of capital at least equal to the amount of the grant to write property insurance in Louisiana that complies with the requirements of R.S. 22:3309 and §12323 of Regulation 82. Grants from the Incentive Program Fund must be matched by such newly allocated insurer capital at a ratio of at least one dollar of allocated insurer capital funds for each dollar of state capital grant funds.

B. Within 10 days of receipt of any Incentive Program Funds, the insurer shall provide to the commissioner written certification signed by two principal officers of the grantee that the Incentive Program Funds have been deposited in an account held in the name of the insurer applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

#### **§12323. Property Insurance Requirements**

A. The grantee shall write new property insurance in Louisiana of the types described in R.S. 22:3309 and this Section of Regulation 82 with net written premiums of at least a ratio of \$2 of premium for each \$1 of the total of newly allocated insurer capital combined with the grant from the Incentive Program Fund. Thus, if the insurer allocates \$2 million in capital and receives a matching state grant of \$2 million, the insurer must write property insurance in Louisiana with net written premiums of at least \$8 million.

B. To comply with the requirements of the grant, the new property insurance written by the grantee shall be residential, commercial, mono-line, or package property insurance policies in Louisiana and must include coverage for wind and hail with limits equal to the limits provided for other perils insured under such policies.

C. The net written premium requirements of this Section will be satisfied only by new property insurance coverages reported on the Annual Statement State Page filed with the department under lines 1 (Fire), 2.1 (Allied Lines), 3 (Farmowners), 4 (Homeowners), or 5.1 (Commercial Multi-peril Non-liability).

D. Grantees shall also comply with the following.

1. By the end of the second year after receipt of the grant and in each succeeding year, the grantee shall maintain at least 25 percent of the net written premiums for policyholders whose property was formerly insured by the Louisiana Citizens Property Insurance Corporation. At least 50 percent of such policyholders insured by the Louisiana Citizens Property Insurance Corporation shall be located in the parishes included in the federal Gulf Opportunity Zone Act of 2005.

2. By the end of the second year after receipt of the grant and in each succeeding year, the grantee shall write at least 50 percent of the net written premiums for policyholders whose insured property is located in Louisiana in a parish included in the federal Gulf Opportunity Zone Act of 2005.

3. The grantee must comply with the requirements of both §12323.D.1 and 2 by the end of the second year and must continue to comply with all requirements in each of the succeeding years of the grant unless an extension has been granted by the commissioner under R.S. 22:3310.B or §12331.C of Regulation 82.

4. The requirements of §12323.D.1 and 2 apply separately, but net written premiums from policyholders formerly insured by the Louisiana Citizens Property Insurance Corporation with property in the federal Gulf Opportunity Zone used to comply with D.1 may also be used to comply with D.2.

5. The net written premium ratios of §12323.D.1 and 2 apply only to the net minimum premium required under §12323.A. Thus the grantee may write additional Louisiana property coverage without regard to ratios required by §12323.D.1 and 2.

E. The requirements of the grant that must be satisfied by the grantee are illustrated by the following example assuming a grant of \$2 million.

1. Example

a. The applicant is awarded a \$2 million grant. Within 10 days of receipt of the grant of Incentive Program Funds, the applicant must match the grant with newly allocated capital funds of at least \$2 million and provide written certification of compliance to the department. By the end of the second year after receipt of the grant, the grantee must write property insurance in Louisiana with net written premiums of at least \$8 million. At least \$2 million of the \$8 million of net written premiums must be written for policyholders whose property was formerly insured by the Louisiana Citizens Property Insurance Corporation and at least \$1 million of that premium must be from policyholders whose insured property is located in Louisiana in a parish included in the federal Gulf Opportunity Zone of 2005. By the end of the second year after receipt of the grant, the grantee must write at least \$4 million of the net written premiums for policyholders whose insured property is located in Louisiana in a parish included in the federal Gulf Opportunity Zone of 2005. By the end of the second year and for each of the succeeding years of the grant, the grantee must maintain net written premiums that comply with all of the requirements set forth above. Compliance with the requirements for the second year and each succeeding year must be demonstrated on the grantee's annual reports.

F. Applicants shall also satisfy the requirements for licensing, form filings, rate filings, and any other applicable provisions contained in Title 22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

**§12325. Earned Capital**

A. An insurer who has received a grant is entitled to earn the grant at the rate of 20 percent per year for each year in which the insurer is in compliance with the requirements of R.S. 22:3301 et seq., and Regulation 82, so that the insurer can earn the entire grant after five years of full compliance with the requirements.

B. The grantee may begin to earn the grant from the reporting period in which the grantee first demonstrates that its net written premiums have reached compliance with all requirements of both §12323.D.1 and 2. The grantee will earn 20 percent of the grant in each 12 month period thereafter in which the grantee demonstrates that it has maintained compliance with all requirements for net written premiums. Thus, if in compliance with §12323.D.1 and 2, the grantee may begin to earn the grant at the end of the first year.

C. Upon receipt of satisfactory documentation of full compliance with the net written premium requirements during the preceding 12 months, the commissioner will issue written declaration that the grantee has earned 20 percent of the grant awarded to the grantee. No funds may be earned by the grantee until it receives official notification from the commissioner certifying that the requirements of the program have been met.

D. If the grantee does not meet the grant requirements during any year but shows promise of future compliance based on good cause having been demonstrated, the commissioner may extend the period of time from five years in order for the grantor to earn the entire grant. The

extension may be granted for up to one year. Such grantee shall not be entitled to earn the Incentive Program Funds (i.e., 20 percent of the grant award) for that year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

**§12327. Funding Schedule**

A. Unless requested by the grantee and authorized by the commissioner, a grant that has been fully approved shall be funded on the next regular quarterly period thereafter, i.e., January 1, April 1, July 1, or October 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

**§12329. Reporting Requirements**

A. Grantee shall segregate and report any grants received on the line titled "Aggregate Write-In for Special Surplus Funds" in the NAIC Annual and Quarterly Statement Blanks.

B. Grantee shall report annually by March 1 of each year on a form acceptable to the commissioner the following information:

1. the amount of premium written under the program;
2. the amount of premium associated with policies for which the Louisiana Citizens Property Insurance Corporation was the immediate previous insurer;
3. the amount of premium associated with properties located in the Federal Gulf Opportunity Zone Act of 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

**§12331. Compliance**

A. The commissioner shall conduct an examination and/or investigation annually, or more often as the commissioner deems necessary to determine the grantee's compliance with the requirements of the grant, as per R.S. 22:3301 et seq., and Regulation 82. Any examination or investigation shall be performed pursuant to R.S. 22:1301 et seq. In addition to the requirements of R.S. 22:1301 et seq., the department may require such reports and/or conduct such examinations or investigations as the commissioner deems necessary to verify compliance with the property insurance requirements set forth in the Incentive Program and Regulation 82.

B. If the commissioner determines that a grantee has complied with the terms of the grant, the commissioner shall notify the grantee in writing that the grantee has earned the 20 percent portion of the grant pursuant to R.S. 22:3310.

C. If the commissioner determines that the grantee shows promise of future compliance, the commissioner may grant an extension of not more than one year to a grantee insurer who has failed to satisfy all requirements of the grant. Such grantee shall not be entitled to receipt of Incentive Program Funds for that year, until full compliance is achieved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

### §12333. Declaration of Default

A. The commissioner may declare an insurer in default of the requirements for a grant should he find any of the following exists.

1. The insurer fails at any time to meet the specific minimum requirements of §12315.A.1-4.

2. The insurer fails to maintain a certificate of authority for the line or lines of insurance written pursuant to the grant program.

3. The insurer fails to meet the specific requirements of §12323.

4. The insurer fails to comply with any other applicable provisions of R.S. 22:3301 et seq., or Regulation 82.

B. If the commissioner determines that a grantee has failed to satisfy one or more of the requirements of the grant and that an extension will not be granted, the commissioner may declare the grantee in default. The commissioner shall notify the grantee in writing that the grantee is in default. Any grantee declared in default by the commissioner shall have 30 days from the date of the declaration of default to request reconsideration by the commissioner. The written request for reconsideration shall set forth, in detail, each and every reason why the grantee is entitled to the relief requested, including any documents tendered in support thereof. The commissioner shall have 30 days from the mailing of the request for reconsideration to review it and render a decision. The commissioner's decision upon reconsideration is final. Unless modified on reconsideration, the default is effective from the date of the original declaration.

C. The grantee in default is liable for and shall repay all grant funds that have not been earned by the grantee, plus legal interest from date of the commissioner's default declaration. If a request for reconsideration is not timely made, repayment is due upon the expiration of 30 days from the declaration of default. If a request for reconsideration is timely made and denied, repayment is due within 10 days of the denial of the reconsideration request.

D. The commissioner may institute legal action to recover all sums due by the grantee in default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

### §12335. Cooperative Endeavor Agreements

A. In furtherance of R.S. 22:3301 et seq., and in accordance with R.S. 22:3303.A, the grantee shall execute a cooperative endeavor agreement with and in a form prescribed by the commissioner subject to approval by the Office of Contractual Review of the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

### §12337. Severability

A. If any provision of Regulation 82 or its application to any person or circumstance is held invalid, such invalidity

shall not affect other provisions or applications of Regulation 82 which can be given effect without the invalid provision or application, and to that end, the provisions of Regulation 82 are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

### §12339. Effective Date

A. Regulation 82 shall become effective on the date of the publication of the final rule in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

### Family Impact Statement

The proposed Regulation 82 LAC 37:XIII, Chapter 123 titled Insure Louisiana Incentive Program 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 the children;
6. the ability of the family or a local government to perform the function as contained in the proposed regulation.

A public hearing on this proposed regulation will be held on October 29, 2007, at 9 a.m., in the Poydras Hearing Room, Poydras Building, 1702 North Third Street, Baton Rouge, LA. Interested persons who wish to make comments may do so at the public hearing or by writing to Warren Byrd, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214. Comments will be accepted through the close of business, 4:30 p.m., October 29, 2007. No preamble concerning the proposed regulation is available.

James J. Donelon  
Commissioner

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Regulation 82—Insure Louisiana Incentive Program

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

DOI anticipates implementation costs of \$230,355 related to Regulation 82 and the total cost of the Insure Louisiana Incentive Program of approximately \$100.2 million. The implementation costs consist of one Compliance Examiner and approximately 1,450 hours of computer programming which will cost \$230,355. Exactly \$100 million has been deposited within the Insure Louisiana Incentive Program Fund in order for the DOI to grant these monies to approved property insurance companies as outlined within Act 447 of the 2007 Regular Legislative Session.

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

There will be no increase or decrease in revenue as a result of Regulation 82.

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

Regulation 82 should provide more insurers writing property insurance in the state, and would have the positive impact to eventually lower the cost of that insurance. However, DOI is unable to quantify the benefits to Louisiana policyholders.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of Regulation 82 should bring more property insurers to the state and thereby improve competition within the insurance marketplace.

Chad M. Brown  
Deputy Commissioner  
0709#023

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Labor  
Office of Unemployment Insurance Administration**

**Lost Wage Benefits for Domestic Violence Victims  
(LAC 40:IV.Chapter 5)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Employment Security Law, R.S. 23:1471 et seq., the Office of Unemployment Insurance Administration of the Department of Labor, hereby issues notice of its intent to adopt Chapter 5 and promulgate rules of the Department of Labor. The proposed Chapter and Rules enable and apply to the provisions of the "Lost Wage Benefits for Domestic Violence Victims Act" (R.S. 23:1700-75), which was enacted by the 2007 Regular Session. The Rule promotes the public interest by ensuring that victims of domestic violence, if otherwise qualified and eligible, can receive unemployment insurance benefits even though the victims do not meet the requirements under R.S. 23:1601(1) and (2).

**Title 40**

**LABOR AND EMPLOYMENT**

**Part IV. Employment Security**

**Subpart 1. Board of Review**

**Chapter 5. Lost Wage Benefits for Domestic Violence Victims**

**§501. Terminology pertaining to Lost Wages for Domestic Violence Victims**

**A. Definitions**

*Domestic Abuse*—includes but is not limited to physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one family or household member against another. Minors are not excluded. *Domestic abuse* also includes abuse of persons 60 years of age or older and any disabled person 18 years of age or older when committed by an adult child or adult grandchild.

*Family Members*—spouses, former spouses, parents and children stepparents, stepchildren, foster parents and foster children.

*Household Members*—any person of the opposite sex presently or formerly living in the same residence with the defendant as a spouse whether married or not, who is seeking protection under this Part.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:

**§503. Administration of Funds**

A. Benefits under the Lost Wage Benefits for Domestic Violence Victims Act are provided to individuals who have lost their employment due to domestic violence and who, otherwise, would not be eligible for unemployment insurance benefits. Towards this end, it shall be the agency's intent to apply all rules, regulations, and laws of the unemployment insurance program with the exception of those clearly excluded by the statute.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:

**§505. Manner of Distribution**

A. The application for and the distribution of benefits under this program shall be in the same manner and using the same methods as those of regular unemployment insurance benefits.

B. The records shall be maintained in a manner that allows for the monitoring and auditing of the program.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:

**§507. Maximum Benefit Amount**

A. The total benefit amount payable under the domestic violence victims program will be reduced by any amount paid from regular unemployment benefits and shall not exceed the maximum benefit amount established in the monetary determination of the unemployment insurance claim.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:

**§509. Filing Period**

A. A claimant shall be eligible to file one new claim per calendar year. The term "new claim" is the first initial claim filed to request a determination of entitlement to and eligibility for compensation which results in an agency generated document of an appealable monetary determination provided to the potential claimant.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:

**§511. Deductions**

A. The following shall not be deducted from benefits of domestic violence victims:

1. severance pay;
2. vacation pay;
3. holiday pay;
4. bonus pay;
5. WARN Act pay;
6. wages in lieu of notice;

7. separation/dismissal pay;
8. tips/gratuities;
9. Workers' Compensation;
10. military retirement pay; and
11. other periodic payment based on previous work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:

**§513. Availability of Claimant**

A. The requirements that an individual must be able to work, available for work and making an active search for work each week will not apply if the conditions that qualified the individual for the program do not permit him/her to work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:

**Family Impact Statement**

1. What effect will this Rule have on the stability of the family? This Rule affects the family by implementing the "Lost Wage Benefits for Domestic Violence Victims Act" which was intended to improve the stability of families who must flee a domestic violence situation.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? There will be no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This will improve the functioning of affected families by providing income replacement.

4. What effect will this have on family earnings and family budget? This will provide additional income not otherwise available to families whose members lose work because of domestic violence.

5. What effect will this have on the behavior and personal responsibility of children? There will be no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? This is strictly a state administered program designed to help victims of domestic violence to sustain themselves and their families financially during temporary periods of unemployment.

All interested persons are invited to submit written comments on the proposed Rule to David Fitzgerald, Chief, Office of Unemployment Insurance, Department of Labor, P.O. Box 94094, Baton Rouge, LA 70804-9094 or to fax at (225) 342-2842. A public hearing on the proposed Rules will be held on Thursday, October 25, 2007, at 2 p.m. in the First Floor Annex Building Conference Room, 1001 North 23rd Street, Baton Rouge, LA 70802. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Written comments will be accepted until 4:30 p.m. on October 24, 2007. No preamble for this proposed Rule is available.

John Warner Smith  
Secretary

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

**RULE TITLE: Lost Wage Benefits for  
Domestic Violence Victims**

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

These rules allow the Department of Labor to implement Act 421 of the 2007 Regular Legislative Session, also known as the Lost Wages for Domestic Violence Victims Act, R.S. 23:1770-75. The Department of Labor estimates that the program will require one-half of a computer programming position at an annual cost of \$32,000 and one-half of an administrative position at an annual cost of \$33,500. This totals approximately \$33,000 per year. This program projects that it will provide benefits to at least 53 participants per year for approximately 26 weeks at an average weekly benefit amount of \$191 for a total cost of \$263,198 in direct benefits. All amounts are funded by yearly appropriation from the state's general appropriations budget pursuant to R.S. 23:1775(A). Act 421 of the 2007 Regular Legislative Session provides funding at \$300,000 per fiscal year.

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

These rules 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)**

This program is estimated to provide benefits to at least 53 participants per year (53 claimants x 26 weeks x \$191 per week = \$263,198). However, the number of persons served by this program might rise if the average duration of benefits is less than the 26 weeks maximum allowed under the regular unemployment insurance program.

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

There will be no effect on competition. However, the receipt of these funds may allow affected individuals time to recover from the trauma of domestic abuse and return to a productive work life instead of seeking public assistance.

John Warner Smith  
Secretary  
0709#047

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Self-Insured Employers  
(LAC 40:I.1711 and 1727)

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana Department of Labor, Office of Workers' Compensation, pursuant to authority vested in the Director of the Office of Workers' Compensation by R.S. 23:1168 and in accordance with applicable provisions of the Administrative Procedure Act, proposes to amend LAC 40:I.1711 and 1727 relative to the individual self-insured employers. The proposed amendments are set forth below.

**Title 40**

**LABOR AND EMPLOYMENT**

**Part I. Workers' Compensation Administration**

**Subpart 1. Fiscal Responsibility Unit**

**Chapter 17. Fiscal Responsibility Unit**

**§1711. Filing of Reports—Penalties**

A. - B. ...

C.1. In addition to the above required annual reports, the Office of Workers' Compensation may require interim financial statements, summary loss data, payroll audits, or such other reports or statements upon reasonable notice.

2. Every self-insured employer shall conduct the administration of its self-insured claims program through the services of a competent administrator or administrative agency or company located in Louisiana. Upon a showing of good cause and upon proof of the competency of the person, company or agency responsible for the administration of the claims, the director may, within his or her discretion, permit such administration from locations outside Louisiana. In the event that a change in the administrative company or agency is desired, notice must be given to and approved by the director prior to the date on which the change is to occur. Failure to notify the director of the proposed change shall constitute good cause for revocation of the certificate of self-insurance.

3. Self-insured employers are required to set reserves for claims in an amount deemed to be sufficient to pay any and all claims expense which may reasonably be expected to be incurred. Those reserves are to be independently verified by an independent actuary once every three years. The actuary's report must be submitted to the office for review accompanied by a letter, signed by an officer of the company, verifying that reserves have been set up in the liabilities section of the balance sheet.

4. The actuarial report must verify the Louisiana workers' compensation claims liability, adequacy of loss reserves for incurred and IBNR claims.

5. The director may, for good cause, at any time, at his or her discretion, require an independent actuarial verification of the proper classification of workers and/or payroll to further ascertain the adequacy of the claims reserves and claims liability.

6. Failure to comply with this provision shall be grounds for revocation of the certificate of self insurance at the discretion of the director.

D. The director, or the designee of the director, or any contract designee of the director, may, for good cause, at any time, examine, review, audit, or inspect all books and records of any self-insured or self insured applicant to determine the claims liability, the workers' compensation claims paying ability, the financial condition in relation to the claims paying ability, and to ascertain the workers' compensation administrative assessment liability. Any self-insurer that refuses to allow the director, or his or her designee, to examine or audit any books or records shall be subject to revocation of the certificate of self-insurance, and to any other penalty allowed by law or regulation. Any applicant for self-insurance who refuses to provide any reports or documentation requested by the director, or who refuses to allow the director or his or her designee to examine, inspect, or audit any books or records so requested by the director shall be denied a certificate of self-insurance.

E. This rule places the responsibility on the employers, groups and service companies to perform their prescribed duties and responsibilities without prompting from the office. Failure or refusal of any self-insurer to file the required report with the office within the prescribed time period shall subject the self-insurer to a civil penalty in such amount as the office may prescribe, not to exceed \$100 per infraction per day, and may be sufficient cause for the revocation of the self-insurer privilege. Failure to pay such penalty within 30 days of the notification may be considered additional cause for revocation of the self-insurer privilege.

F. Any notice required to be given by these rules and regulations to the director shall be deemed proper if made in writing, addressed to the director. Any notice required by these rules and regulations to be given if in writing and addressed to the employer at the address shown on either the application or the last annual report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1168 of Act 938 of 1988 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:961 (October 1991), amended by the Department of Labor, Office of Workers' Compensation LR 33:

**§1727. Application for Payment of Security**

A. An injured worker or group of injured workers can apply to the director for the payment of benefits pursuant to R.S. 23:1168.D if a self-insured employer has failed to pay benefits for undisputed claims.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1168 of Act 938 of 1988 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:964 (October 1991), amended by the Department of Labor, Office of Workers' Compensation, LR 33:

Inquiries concerning the proposed repeal and enactment may be directed to Karen Reiners Winfrey, Assistant Secretary, Office of Workers' Compensation Administration, Louisiana Department of Labor, P.O. Box 94040, Baton Rouge, LA 70804-9040.

Interested persons may submit data, views, arguments, information or comments on the proposed repeal and enactment in writing, to the Louisiana Department of Labor, P.O. Box 94040, Baton Rouge, LA 70804-9040, Attention: Karen Reiners Winfrey, Assistant Secretary, Office of Workers' Compensation Administration. Written comments must be submitted and received by the department within 10 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the department within 20 days of the date of this notice.

John Warner Smith  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Self-Insured Employers**

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

There are no estimated implementation costs or saving to state agencies from the proposed rules. Local government units who are self-insured will incur a maximum cost of \$5,000

every three years to complete an actuarial study as required by the proposed rules.

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

There are no estimated effects on revenue collections of state or local governmental groups from the proposed amended rules.

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

Companies who are self-insured will incur a maximum cost of \$5,000 every three years to complete an actuarial study as required by the proposed amended rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition or employment from the proposed amended rules.

John Warner Smith  
Secretary  
0709#050

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Labor Office of Workforce Development

Workforce Training  
(LAC 40:XVI.Chapter 1)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 23:1514, that the Office of Workforce Development of the Department of Labor proposes to amend Part XVI, Chapter 1 of the administrative rules of the Department of Labor. The proposed amendments will implement a new pre-employment training program and other changes to the Incumbent Worker Training Program enacted by Act 59 of the 2007 Regular Session of the Louisiana Legislature. The proposed amended Rule will promote the public interest and benefit workers and employers by funding job training tailored to meet their specific job skill needs.

#### Title 40

### LABOR AND EMPLOYMENT

#### Part. XVI. Workforce Training

#### Chapter 1. Incumbent Worker Training Fund

##### §101. Purpose and Definitions

A. This program provides assistance to companies and workers by providing training for incumbent workers or prospective employees in order to upgrade their job skills to meet specific industry needs and skill requirements.

B. Definitions

*Account*—the Incumbent Worker Training Account.

*Administrative Services*—include, but are not limited to planning, scheduling and coordination with the employer and subcontractors in order to insure timely commencement and acceptable progression of training; acting as fiscal agent for the contract (i.e., receiving payments from LDOL and paying vendors, other training providers, subcontractors, and others to whom payments are owed); submission of all required reports, invoices and supporting documentation in a timely and acceptable manner; ordering, receiving, installing and maintaining equipment, materials, supplies and non-consumables; and execution of timely corrective action plans to address problems with program progress.

*Applicant*—the business, consortium or organization requesting training assistance from LDOL under this program including a registered joint labor and employer group-administered apprenticeship program under §103.A.2.

*Award*—funding approved under this program for eligible training activities.

*Awardee*—an applicant receiving a training award under this program.

*Contract*—a legally enforceable agreement between LDOL, the awardee and the primary training provider governing the terms and conditions of the training award, except that, if an awardee is to do all training with its own employees, a training provider shall not be a party to the contract.

*Customized Training*—training designed to meet the special needs and skill requirements of the applicant, which may include specialized curriculums, instructional materials, training delivery methods, and training locations. Customized training also may include standardized courses.

*Fiscal Year*—July 1 through June 30.

*Incumbent Worker*—a worker who is currently on the payroll of the applicant.

*LDOL*—the Louisiana Department of Labor.

*Pre-Employment Training*—customized training for non-incumbent workers.

*Primary Training Provider*—the training provider responsible for the administrative services of the contract.

*Secretary*—the Secretary of the Department of Labor.

*Small Business Employee Training*—off-the-shelf training available to businesses having 50 or fewer employees. This training is not customized to the needs of the individual applicant and must be offered by a training provider at the time the application is filed with LDOL. Training is to be administered in accordance with §113.

*Supplant*—diversion of normal training funding for other uses because training funds are awarded under the Incumbent Worker Training Program.

*Training Provider*—any entity providing the customized training for the awardee. Training providers may include the primary training provider and subcontractors of the primary training provider who assist in providing the customized training. An awardee that performs all or any portion of the training with its own employees is not a training provider for the purpose of interpreting these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workforce Development, LR 25:1142 (June 1999), amended LR 26:1629 (August 2000), LR 29:2497 (November 2003), amended by the Department of Labor, Office of the Secretary, LR 30:2329 (October 2004), amended by Department of Labor, Office of Workforce Development, LR 33:

##### §103. Eligibility

A. An applicant is eligible to obtain customized, pre-employment or small business employee training if it meets either of the following criteria.

1.a. The applicant is an individual employer or a consortium made up of two or more eligible employers who meet all of the following requirements:

i. have been operating in Louisiana for not less than three years;

ii. are contributing to the account, for which liability is incurred under this Chapter;

iii. are current on the payment of their state unemployment taxes. An awardee must maintain current status on payment of its state unemployment taxes throughout its contract.

b. In the case of a buyout, merger or succession, LDOL will rely on the Louisiana Employment Security Law, R.S. 23:1471 et seq., as applied by the Tax Operations Unit of the Office of Unemployment Insurance Administration, to determine whether, in applying this requirement, an applicant will carry over the experience-rating record of a predecessor or acquired entity.

2. The applicant is a labor or community-based organization, a registered joint labor and employer group-administered apprenticeship program, or a consortium made up of any combination of educational institutions, eligible individual employers or labor or community based organizations, that seek to provide customized or pre-employment training for workers who meet all of the following requirements:

- a. are in a demand occupation;
- b. are incumbent to an industry;
- c. were attached to a contributing employer within the last 12 months;
- d. are not receiving unemployment insurance benefits at the time of training.

B. Qualified businesses currently receiving training for their employees may, upon the expiration of contracts, be awarded new training grants for training of employees, including previously trained employees.

C.1. All applications by eligible applicants for customized and/or pre-employment training shall be submitted in conjunction with the primary training provider selected by the applicant to provide the customized training, unless all training is to be performed by the applicant's employees, in which case the application shall be submitted by the applicant.

2. Training may be provided by the awardees employees rather than by a training provider when the secretary determines that such training is in the best interest of the applicant and the trainees. Documentation shall be submitted to support the need for using the applicants employees as instructors (e.g., training requested is highly technical or specific to the company, or lack of training or resources such as instructors, equipment, flexible training schedules or curricula from local training providers). Auditing procedures that require more frequent on-site auditing reviews in order to ensure compliance with the terms and conditions of the training award contract will apply. Requirements governing training providers (e.g., accreditation, certification, licensing, training history, related parties) are not applicable to training done by an awardees employees.

3. Training providers must demonstrate a history of:

- a. successful training through participant and employer satisfaction results;
- b. collaboration with the targeted industry in the development of customized training; and
- c. use of a current industry standard as the basis for programs utilized to train students for employment in the targeted industry.

D. Nothing contained herein shall prohibit the selection of a Louisiana accredited public or private educational

institution, a public or private licensed proprietary school, an independently certified training program, or other training programs possessing similar independent sanction appropriate to the training provided, that have demonstrated a history of successful training to LDOL, as a training provider.

E. Applicants seeking a training award may not select as a training provider:

1. any entity whose principal owner is an immediate family member, as defined in the Code of Governmental Ethics, of an individual in a management position with the employer who has the authority to make decisions regarding the training program; or

2. any related business such as a parent, subsidiary, or partner business of the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workforce Development, LR 25:1142 (June 1999), amended LR 29:2498 (November 2003), amended by Department of Labor, Office of Workforce Development, LR 33:

### **§105. Criteria for Customized and Pre-Employment Training**

A. Applicants receiving awards must provide evidence satisfactory to LDOL of their long-range commitment to employee training and that funds will be used to supplement and not supplant existing training efforts.

B. No single applicant shall receive more than 10 percent of the annual amount appropriated to the account. Additionally, no single employer or consortium shall receive more than 10 percent of the annual amount set aside for pre-employment training by the secretary. An employer with multiple operation sites and a single unemployment insurance tax identification number shall be limited to a single application which may encompass training at the various sites, so long as the amount awarded under the application does not exceed the maximum award amount. When an employer has more than one site and each site maintains a different unemployment insurance tax identification number, the employer may apply for a separate training award under each tax identification number. No applicant may receive customized and/or pre-employment training concurrently with small business employee training.

C. Applicants must request training for at least 15 employees and where applicable, the training provided must meet, at the minimum, the safety standards determined by OSHA.

D. Special emphasis shall be placed on entry level and labor demand occupation incumbent worker training programs to meet specific industry needs and skill requirements.

E. Preference will be given to applicants that have:

1. proposed to share the cost of training expenses;
2. donated materials, equipment, or instructors to public training providers, secondary and postsecondary vocational-technical schools, or community colleges within the state;
3. hired recent recipients of public assistance such as Workforce Investment Act (WIA), unemployment benefits, Family Independence Temporary Assistance Program (FITAP) and rehabilitative services;
4. hired individuals recently released from a correctional facility;

5. participated in a workplace safety consultation with employees of the Office of Workers Compensation Administration;

6. listed job openings with LDOL; and/or

7. never received a training award under this program.

F.1. The secretary may annually set aside an amount up to 10 percent of the amount appropriated to the account by the legislature for pre-employment training in any year in which the legislature appropriates funds for training equal to or exceeding those funds appropriated in the previous year to the Rapid Response Fund created by R.S. 51:2361 or the Louisiana Economic Development Fund created by R.S. 51:2315 the secretary may set aside an amount not to exceed 10 percent of the Incumbent Worker Training Programs annual appropriation for pre-employment training.

2. Pre-employment training shall only be available to an applicant that:

a. has entered into a contract with the Louisiana Department of Economic Development (LED) related to expansion of the applicants Louisiana operations;

b. agrees to stated job placement outcomes. The applicant shall agree to hire a specified number or percent of the trainees who complete training, which shall be determined on a case-by-case basis by the secretary taking into account, in consultation with the Louisiana Department of Economic Development (LED), the economic impact of the training to be provided, the general demand for the skills for which training is provided, the amount of pre-employment funds to be provided to the applicant by LDOL, the percent and amount of the employers matching contribution, and other factors the secretary deems relevant to the individual application;

c. agrees to make a matching monetary contribution as required by the secretary of up to 50 percent of the total training cost. An employer may offer to make a larger matching contribution, which the secretary may take into account in deciding required job placement outcomes;

d. agrees to pay trainees who are hired wage rates commensurate with the pre-employment training provided. Whether wage rates are commensurate shall be based upon consideration of the competitive wage rates paid to other employees in the job market having skills, training and experience comparable to that of the trainees.

3. In making award decisions, the secretary also may consider other relevant factors, including, but not by way of limitation, the employer's commitment to provide future training after the expiration of its contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, LR 25:1143 (June 1999), amended LR 26:1629 (August 2000), LR 28:2203 (October 2002), LR 29:2498 (November 2003), amended by the Department of Labor, Office of the Secretary, LR 30:2329 (October 2004), amended by Department of Labor, Office of Workforce Development, LR 33:

#### **§107. Application Procedure for Customized and Pre-Employment Training**

A. LDOL will provide a standard form which applicants will use to apply for assistance. The application form will

contain, but not be limited to, detailed descriptions of the following:

1. an overview of the company, its history, and the business climate in which it operates;

2. the company's overall training plan, including:

a. a summary of the types and amount of training currently provided by the company and a description of how the company determined its training needs; and

b. the specific training programs for which LDOL assistance is requested including descriptions of the training methods, the training providers, and the costs associated with the proposed training; and

3. any additional information the secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workforce Development, LR 25:1143 (June 1999), amended LR 26:1630 (August 2000), amended by Department of Labor, Office of Workforce Development, LR 33:

#### **§109. Submission and Review Procedure for Customized and Pre-Employment Training**

A. Applicants must submit their completed application to LDOL. Submitted applications will be reviewed and evaluated by LDOL staff. All applications will be measured using a rating system as an evaluation tool that will enable LDOL staff to determine which applications should receive approval, be deferred to future funding cycles, or be denied outright. Input may be required from the applicant, other divisions of LDOL and other state agencies as needed, in order to:

1. understand the labor market conditions the proposed training is seeking to mitigate;

2. evaluate the strategic importance of the proposed training to the economic well-being of the state and local communities;

3. determine whether the employer's specific needs are best met by training;

4. identify the availability of existing training programs which could be adapted to meet the employer's needs;

5. identify the resources the business can provide to support the training, including trainers, facilities, materials and equipment;

6. identify or develop appropriate curricula; and

7. determine the most cost effective approach to meet the employers training need. The applicant may be required to submit cost justification information.

B.1. Upon determination that an application meets the eligibility criteria for this program and is beneficial to the applicant, employees and the state, LDOL staff will then make a recommendation to the secretary. The application will then be reviewed by and is subject to the approval of the secretary.

2. Copies of approved applications shall be sent to the executive director and chairperson of the Louisiana Workforce Commission quarterly.

3. The secretary will issue a letter of commitment to the applicant within five working days of approving the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, LR 25:1143 (June 1999), amended LR 26:1630 (August 2000), LR 29:2498 (November 2003), amended by the Department of Labor, Office of the Secretary, LR 30:2329 (October 2004), amended by Department of Labor, Office of Workforce Development, LR 33:

**§111. General Award Provisions for Customized and Pre-Employment Training**

**A. Contract Procedures**

1. A contract will be executed between LDOL, the awardee and the primary training provider unless all training is to be provided by the awardees employees, in which case the contract will be executed between LDOL and the awardee only. The contract will specify the performance objectives expected of the awardee and the primary training provider and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time lines for job training.

2. LDOL will reimburse the primary training provider or, if all training is to be performed by the awardees employees, the awardee upon completion of training based on invoices and supporting documentation submitted in a manner prescribed by LDOL.

3. Customized training awards may be used for training programs extending up to one year in duration, or up to two years if sufficient justification is submitted to support the additional time requested.

4. Pre-employment training awards may be used for training programs extending up to one year.

**B. Use of Funds**

1. The account offers financial assistance in the form of a grant for reimbursement of eligible training costs specified in the award agreement.

2. Eligible training costs may include the following:

a. tuition costs, which may include the cost of courses at a Louisiana accredited public or private educational institution, a public or private licensed proprietary school, an independently certified training program, or other training programs possessing similar independent sanction appropriate to the training provided, that have demonstrated a history of successful training to LDOL. Such costs may include the cost of courses, contracts for vendor trainers, training seminar fees, and wages, but not the cost of related benefits, for instructors employed by the awardee;

b. trainees travel costs are limited to 30 percent of the total training award and are reimbursable if provided for in the contract, but only to the extent permitted by State Travel Regulations, PPM 49;

c. materials and supplies costs for items such as training texts and manuals, audio/visual materials, skills assessment (documents or services to determine training needs), raw materials (for-training purposes only), Computer Based Training (CBT) software; and office supplies used for contract-related purposes;

d. facility rental associated with the training contract;

e. screening, skills assessment and testing costs, but said services shall be coordinated and administered through LDOL;

f. for pre-employment training only, remediation costs;

g.i. payment for administrative services performed by a training provider in a total amount not to exceed 10 percent of the amount of the grant. Administrative costs will be negotiated on a contract-by-contract basis. In determining the maximum base amount of payments for administrative services the cost of equipment shall be excluded. Where more than 25 percent of the tuition cost is outsourced by the primary training provider to one or more other training providers, LDOL may further reduce payment of the administrative services base amount;

ii. administrative services base amount payments must be earned and are payable only upon performance of the specific administrative services required by the training contract. A payment schedule for specified administrative services tasks shall be included in every contract, but, except for the additional payment permitted in Subparagraph iv, the department will not pay base amount administrative services payments that exceed 10 percent of allowable invoiced training costs, excluding the cost of equipment, and no payment for administrative services will be made until training has commenced;

iii. LDOL shall require the reporting and documentation of all base amount administrative services performed. If the primary training provider or applicant fails to perform all required administrative services, LDOL shall reduce payment for administrative services by a corresponding amount;

iv. in addition to base amount administrative services payments, LDOL will reimburse the wages, but not the cost of related benefits, of primary training provider staff related to the purchase of equipment when supported by certified source documentation of the staff time devoted to equipment purchase administrative services tasks.

3. Training costs ineligible for reimbursement include:

a. trainee wages and fringe benefits;

b. non-consumable tangible property (e.g., equipment, calculators, furniture, classroom fixtures, non-Computer Based Training (CBT) software), unless such property will be owned by a public training provider at the conclusion of the training contract;

c. out-of-state schools;

d. employee handbooks;

e. scrap produced during training;

f. food, and refreshments;

g. awards and certificates; and

h. administrative costs of training providers other than the primary training provider, and administrative costs of an awardee, even if the awardee provides some or all training with its own employees.

**C. Conditions for Disbursement of Funds**

1. Funds will be available for payment following submission of original invoices and supporting documentation as prescribed by LDOL to the attention of the Incumbent Worker Training Program director, Office of Workforce Development, by mail or hand delivery. Only funds spent or administrative services performed on the project after the secretary signs the contract will be considered eligible for reimbursement or payment. LDOL shall make a determination regarding an invoice within

15 working days after receipt of the invoice and will make payment within 15 working days of approval of said invoice. Certain invoices that need priority attention shall be clearly marked "priority" and LDOL shall make a good faith effort to expedite the processing of such invoices. Invoices regarding the purchase of equipment must be accompanied by documentation confirming delivery.

2. Invoices will be eligible for payment at 100 percent of the total invoice amount until the sum of disbursements under a contract are equal to 90 percent of the total grant award. After the applicant and the primary training provider have achieved 100 percent of their contracted performance objectives or have substantially complied with the terms of the contract as determined by the secretary, the remaining 10 percent of the grant award will be made available for payment.

3. All disbursements of funds shall be made to the primary training provider responsible for the administration of the contract unless all training on the grant is performed by the awardees employees, in which case payment shall be made directly to the awardee.

#### D. Compliance Requirements

1. Primary training providers, or if all training is performed by the awardees employees, the awardee shall be required to complete quarterly reports describing progress toward the performance objectives specified in their contract. Primary training providers shall also be responsible for providing documentation to LDOL on a quarterly basis regarding the satisfaction of the business receiving training under the contract. All quarterly reporting must be submitted in a format prescribed by LDOL.

2. In the event the applicant or primary training provider fails to meet the performance objectives specified in its contract, LDOL shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the awardee and/or primary training provider in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

3. In the event LDOL decides to withhold award funds, modify the terms and conditions of an award, or reclaim disbursed funds from the awardee and/or primary training provider, LDOL shall provide written notice of such determination to the awardee and primary training provider within three working days of such decision.

a. The awardee or primary training provider may appeal an adverse decision made by LDOL by providing written notice of objection to the program director within five working days of receipt of the adverse decision. If a request for an appeal is made, then the appellant shall submit documentation to support the appeal within 10 working days after forwarding notice of the appeal. The program director shall review the evidence submitted and render a written decision within 20 working days after receiving notice of the appeal. If no appeal is filed within the applicable time period, the decision of LDOL shall become final.

b. If after review of the appeal the program director renders a decision that is adverse to the appellant, then the matter shall be subject to review by the Commissioner of Administration pursuant to R.S. 39:1524 and 39:1525.

4. In the event an applicant, awardee or primary training provider knowingly files a false statement in its

application or in a progress report, the applicant, awardee or primary training provider shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in R.S. 14:133.

5. LDOL may require and/or conduct financial and performance audits of a project, including all relevant records and documents of the training provider(s) and awardee. Said records shall be preserved for the same period of time as would be required by the Louisiana Public Records Law, R.S. 44:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workforce Development, LR 25:1143 (June 1999), amended LR 26:1630 (August 2000), amended by the Department of Labor, Office of the Secretary, LR 30:2330 (October 2004), amended by Department of Labor, Office of Workforce Development, LR 33:

### **§113. Small Business Employee Training Program General Award Provisions**

A. For purposes of this Part, small business is defined as a Louisiana based business that has 50 or fewer employees and is an eligible applicant as outlined in §103.A.1. The applicant will be reimbursed for the eligible costs associated with the training once the training has been completed and proper documentation has been submitted to LDOL.

B. An applicant cannot receive customized and/or pre-employment training and small business employee training concurrently.

C. The applicant must submit the Small Business Employee Training Program application in a format prescribed by LDOL and receive LDOL approval, in writing, prior to the start of any training.

D. The applicant must be current on all state UI tax obligations and maintain such status throughout the award period.

E. Trainees must be incumbent workers for whom the applicant incurs a state unemployment tax liability under R.S. Title 23, Chapter 11.

F. The request for training must be in a labor demand occupation as defined in the Workforce Investment Act of 1998 (WIA) or cluster based industry as defined in Vision 2020.

G. Small business training shall consist of one or more of the following:

1. taking a class, either non-credit or credit, at a Louisiana accredited public or private educational institution, a public or private licensed proprietary school, an independently certified training program, or other training programs possessing similar independent sanction appropriate to the training provided, that have demonstrated a history of successful training to LDOL. Training providers must be domiciled in Louisiana;

2. receiving training from a manufacturer or its representative within one year of the purchase of equipment valued at more than \$3,000 where the training is not otherwise incorporated into the purchase price of the equipment;

3. receiving training from a manufacturer or its representative in order to upgrade computer skills; and/or

4. receiving training from a national, regional or state trade association that offers an independently certified training curricula and testing or courses sponsored and

sanctioned by the trade association, which can demonstrate a successful training history of at least five years.

H. Training costs shall not exceed \$3,000 per trainee per fiscal year.

I. Training costs are limited to the following:

1. tuition; and
2. required textbooks and manuals.

J. Training must be completed by the end of the state fiscal year in which it was begun.

K. Upon completion of the training, the awardee must submit invoices for training expenditures along with proof of payment, proof of completion from the training provider, as well as proof of a pay increase or wages that were paid for the training hours attended, all within 30 days of the completion of the training.

L. An application shall be deemed approved by LDOL upon written approval of the Secretary of Labor or their designee. A letter of approval shall be forwarded to the applicant within five working days of approval of the application.

M. The Small Business Employee Training Program shall be funded at 2.3 percent of all funds available for training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, LR 29:2499 (November 2003), amended by the Department of Labor, Office of the Secretary, LR 30:2330 (October 2004), amended by Department of Labor, Office of Workforce Development, LR 33:

#### **Family Impact Statement**

1. What effect will this Rule have on the stability of the family? This Rule affects the family by developing employees job skills, facilitating employment, promoting job security, and raising workers pay, which in should support family stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? There will be no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This will improve the functioning of affected families by facilitating employment, promoting job security and raising workers pay.

4. What effect will this have on family earnings and family budget? This will help stabilize employment and develop job skills, which will raise workers pay.

5. What effect will this have on the behavior and personal responsibility of children? There will be no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? This program provides workers with training that they have not been able to obtain on their own.

All interested persons are invited to submit written comments on the proposed Rule to Michael L. Harris, Director, Incumbent Worker Training Program, Department of Labor, 5615 Corporate Blvd., Suite 300, Baton Rouge, LA 70808 or by fax at (225) 925-3631. A public hearing on the proposed Rule will be held on Tuesday, October 30, 2007, at 9 a.m. in the Fourth Floor Administrative Building

Auditorium, 1001 North 23rd Street, Baton Rouge, LA 70802. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Written comments will be accepted until 4:30 p.m. on Monday, October 29, 2007. No preamble for this proposed Rule is available.

John Warner Smith  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Workforce Training**

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

State expenditures for the Incumbent Worker Training Program could increase or decrease each year based on the proposed rule amendments. Act 1053 of the 1997 Regular Legislative Session established the Workforce Training Account. During the 1999 Regular Session, the Louisiana Legislature increased the appropriation into this account from a fixed \$6 million per year to \$6 million, \$35, or \$50 million per year depending on the balance of the Unemployment Insurance Trust Fund as determined by the Revenue Estimating Conference each September. Act 59 of the 2007 Regular Legislative Session also changed the name of the account to the Incumbent Worker Training Account and changed the amounts appropriated to the account to \$0, \$20 million, or \$35 million per year based on the Unemployment Trust Fund balance as determined by the Revenue Estimating Conference each September. Act 59 also gave the Secretary of the Labor the discretion to annually set aside an amount up to 10 percent of the amount appropriated to the account by the legislature for pre-employment training in any year in which the legislature appropriates funds for training equal to or exceeding those funds appropriated in the previous year to the Rapid Response Fund created by R.S. 51:2361 or the Louisiana Economic Development Fund created by R.S. 51:2315.

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

Statutorily dedicated revenues for the Incumbent Worker Training Account could increase or decrease each year based on changes made by Act 59 of the 2007 Regular Legislative Session and the proposed rule amendments (see Roman numeral I above for more details on these changes). There will be no effect on revenue collections of local governmental units as a result of these proposed rule amendments.

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

Business assessments for the Incumbent Worker Training Account could increase or decrease each year based on changes made by Act 59 of the 2007 Regular Legislative Session and the proposed rule amendments (see Roman numeral I above for more details on these changes). The proposed rule amendments may economically benefit employers and employees by permitting them to receive training under the program under additional circumstances such as pre-employment training allowed by Act 59 of the 2007 Regular Legislative Session.

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

The proposed rule changes should not significantly effect competition and employment among those awarded grants for customized training, pre-employment training or small business employment training. However, successful applicants who are

awarded training funds, compared to entities that do not receive the funds, may gain some advantage. Employees of organizations benefiting from awards should be better trained, more productive and more efficient.

John Warner Smith  
Secretary  
0709#056

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Labor Office of Workplace Development Apprenticeship Division

#### Apprenticeship Tax Credit (LAC 40:IX.Chapter 7)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Department of Labor proposes to adopt certain rules concerning the Apprenticeship Program.

This Rule is proposed pursuant to Act 472 of the 2007 Regular Session of the Louisiana Legislature which established an Apprenticeship Tax Credit for eligible employers.

#### Title 40

#### LABOR AND EMPLOYMENT

#### Part IX. Apprenticeship

#### Chapter 7. Apprenticeship Tax Credit

#### §701. Authority

A. Under the authority set out in Act 472 of the 2007 Regular Session of the Louisiana Legislature, a tax credit is hereby provided as an incentive for businesses to employ eligible apprentices with a goal toward providing an adequate number of Louisiana citizens in the workforce with the on-the-job training necessary to find jobs and keep those good paying jobs already present as well as those jobs that would be here if more of the workforce was of higher quality. The Secretary of Labor is required to adopt regulations for the purpose of implementing this Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, Apprenticeship Division, LR 33:

#### §703. Definitions

*Department*—the state Department of Labor, Apprenticeship Division.

*Eligible Apprentice*—a person who has entered into a written apprentice agreement with an employer or an association of employers pursuant to a registered apprenticeship program as provided for in Chapter 4 of Title 23 of the Louisiana Revised Statutes of 1950 (R.S. 23:381 et seq.)

*Employer or Requesting Party*—any person or organization employing an eligible apprentice either as a recognized program sponsor or as an obligated employer participant in an apprenticeship training program under a different program sponsor registered with the department. It may also be any person or organization employing an NCCER apprentice in accordance with this chapter.

*NCCER*—the National Center For Construction Education and Research.

*NCCER Apprentice*—a person who is enrolled in a training program accredited by the National Center for Construction Education and Research which has no less than four levels of training and no less than 500 hours of instruction.

*Program Sponsor*—any person or organization operating a state apprenticeship program registered by and in good standing with the state Department of Labor, Apprenticeship Division.

*Revenue*—the Louisiana Department of Revenue.

*Secretary of Labor*—the administrator of the state Department of Labor, or any person specifically designated by the Secretary of Labor, Department of Labor who with the advice of the state Director of Apprenticeship, executes apprenticeship policy and standards.

*Standards of Apprenticeship*—an organized, written plan embodying the terms and conditions of employment, training, and supervision of one or more apprentices in an apprenticeable occupation and in accordance with §301 of this Part.

*State Apprenticeship Program*—a program registered by and in good standing with the state Department of Labor, Apprenticeship Division and meeting the minimum standards of the state Apprenticeship Law.

*State Director of Apprenticeship*—the administrator of the state Department of Labor, Apprenticeship Division, or any person specifically designated by the state Director of Apprenticeship who is authorized to administer the provisions of Louisiana apprenticeship law and rule.

*Taxpayer*—any corporation, S corporation, partnership, or individual subject to income and/or franchise taxes imposed under Title 47 of the Louisiana Revised Statutes.

*Taxable Period*—the taxpayer's annual accounting period, whether it be a calendar year or a fiscal year or the period for which the return is made, if a return is made for a period of less than 12 months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, Apprenticeship Division, LR 33:

#### §705. Purpose

A. The Louisiana State Legislature has determined that a major impediment to the economy of the state is the lack of an adequate number of people in the workforce with sufficient on-the-job training to find and keep good paying jobs already present as well as those that would be here if more of the workforce was of higher quality. The purpose of this tax credit is to provide an incentive for businesses to employ apprentices with a goal toward providing such a workforce.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, Apprenticeship Division, LR 33:

#### §707. Eligibility

A. Any taxpayer who employs an eligible apprentice duly indentured and registered under the approved Standards of Apprenticeship terms of a state Apprenticeship program or a person who is enrolled in a training program accredited

by the National Center for Construction Education and Research which has no less than four levels of training and no less than 500 hours of instruction is entitled to a non-refundable apprentice tax credit against any Louisiana individual or corporation income tax or corporation franchise tax each tax year equal to \$1 for each hour of employment of each eligible apprentice, not to exceed 1,000 hours for each eligible apprentice provided such apprenticeships meet the following requirements.

1. A pre-apprentice shall not be considered to be an eligible apprentice, and a pre-apprentice is therefore not eligible for tax credits under this regulation.

2. For state apprenticeship training programs and for purposes of this tax credit only, the tax credit shall be limited to programs which are not less than 4,000 hours (2 years) of on the job training nor more than 10,000 hours (5 years) of on the job training according to the approved Standards of Apprenticeship.

3. Existing procedures and policies for the awarding of advanced status to apprentices for previous training or work experience will remain in effect. Time awarded in recognition of satisfactory completion of previous training or work experience shall not be eligible for a tax credit.

4. In accordance with Louisiana apprenticeship law, rule and policy, a finding that a state apprenticeship program is not in compliance with its approved standards of apprenticeship shall be sufficient cause for revocation of tax credit eligibility. Such revocation shall be applied regardless if the program sponsor is an employer, an association of employers, or an organization of employees for a period of one year or until such program has established compliance with said standards.

5. For NCCER apprentices, the state Department of Revenue shall determine, through rules, the enrollment and transcript data required from the National Center for Construction Education and Research for students enrolled in one of its accredited training programs which is sufficient for the department to determine the employer's eligibility for, and the amount of the credit, authorized by Public Act 472.

6. In order to be eligible for the tax credit, an NCCER apprentice enrolled in a training program accredited by the National Center for Construction Education and Research must have successfully completed no less than two levels of training and no less than 250 hours of instruction. Employers requesting the tax credit shall receive such tax credit only after such eligibility has been met and confirmed. The tax credit shall only apply to hours completed after the initial requirement has been met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, Apprenticeship Division, LR 33:

#### **§709. Method of Computation**

A. Computing Tax Credit. To compute the tax credit allowable to an employer that has an approved state apprenticeship program, the following procedure is to be followed.

1. First, identify the calendar months during the current tax period claimed in which each eligible apprentice was employed.

2. Second, add the number of hours worked by the eligible apprentice in each calendar month in which an eligible apprentice was employed.

3. Third, add the number of eligible monthly hours within the tax period claimed.

4. Finally, multiply the result reached in the step above by \$1 to arrive at the total tax credit for the tax period, not to exceed \$1,000 for each eligible apprentice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, Apprenticeship Division, LR 33:

#### **§711. Method of Reporting**

A. The department shall provide to the state Department of Revenue an annual list of businesses which participate in state apprenticeship programs as well as the number of eligible apprentices that each employer has employed for the year.

1. For purposes of this tax credit, a state apprenticeship program in good standing shall provide to the department a list of active apprentices for each year. The state Director of Apprenticeship shall verify the registration of apprentices and shall then forward such information to the state Department of Revenue

B. The state Department of Revenue shall make a final determination on all requests for the apprenticeship tax credit.

C. All records pertaining to the apprenticeship tax credit shall be retained by the employer requesting the tax credit for a period not less than five calendar years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, Apprenticeship Division, LR 33:

#### **§713. Limitations**

A. The tax credit shall be allowed against income tax or corporate franchise tax for the taxable period in which the credit is earned. If the tax credit exceeds the amount of such taxes due, then any unused credit may be carried forward as a credit against subsequent tax liability for a period not to exceed 10 years.

1. The credit for taxes paid by or on behalf of a corporation shall be applied against Louisiana corporate income and corporation franchise taxes of such corporation.

2. The credit for taxes paid by an individual shall be applied against Louisiana personal income taxes.

3. The credit for taxes paid by or on behalf of a corporation classified under Subchapter S of the Internal Revenue Code of 1954, as amended, as an S corporation shall be applied first against any Louisiana corporate income and corporation franchise taxes due by such S corporation, and the remainder of any such credit shall be allocated to the shareholder or shareholders of such S corporation in accordance with their respective interests and applied against the Louisiana income tax of such shareholder or shareholders of the S corporation.

4. The credit for taxes paid by or on behalf of a partnership shall be allocated to the partners according to their distributive shares of partnership gross income and

applied against any Louisiana income tax and corporation franchise tax liability of such partners.

5. The character of the credit for taxes paid by or on behalf of a partnership or S corporation and allocated to the partners or shareholders, respectively, of such partnership or S corporation, shall be determined as if such credit were incurred by such partners or shareholders, as the case may be in the same manner as incurred by the partnership or S corporation, as the case may be.

6. The credit for taxes paid by an estate or trust shall be applied against the Louisiana income tax imposed on estates and trusts.

B. The apprenticeship tax credit shall have an effective period beginning January 1, 2008, and shall not extend beyond December 31, 2011. All requests for the tax credit for hours worked by eligible apprentices and NCCER apprentices outside of this period shall be invalid and denied.

C. Nothing in this Chapter or in any apprentice agreement approved under this Chapter shall operate to invalidate any apprenticeship provision in any collective agreement between employers and employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, Apprenticeship Division, 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 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.

A public hearing will be held on Thursday, October 25, 2007 at 9:30 a.m. in the Third Floor Conference Room of the Louisiana Department of Labor Annex Building. Interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than October 24, 2007, at 4 p.m. to Lonnie Rogers, P.O. Box 94094, Baton Rouge, LA 70804-9094.

John Warner Smith  
Secretary

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

**RULE TITLE: Apprenticeship Tax Credit**

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

There are no significant estimated costs to the Louisiana Department of Labor to implement the proposed rule changes. There are no estimated costs or savings to local government units from the proposed rule changes.

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

State general funds will decline by at least \$3.5 million per year beginning in Fiscal Year 2008-09 due to a projected 3,500 registered apprentices participating in the program. Most employers of participating apprenticeships are likely to receive the maximum allowable credit of \$1000 each year for each apprentice. As such, state general fund revenue losses will be at least \$3.5 million per year (3,500 estimated apprentices x

\$1,000 tax credit per apprentice = \$3,500,000). However, the credit is nonrefundable and some employers may not have sufficient tax liabilities in a particular year to realize all of that year's credit. The bill provides a 10-year carry-forward for unused credit amounts. Thus, realized revenue losses are likely to be erratic from year to year.

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

Employers participating in the program will receive tax credits up to \$1,000 per year per apprentice to offset the cost of training such apprentices. The Department of Labor is unaware of any factors which might cause additional costs for employers.

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

The amendments to the rules will provide an incentive for businesses to employ eligible apprentices with a goal toward providing an adequate number of Louisiana citizens in the workforce with the on-the-job training necessary to find jobs and keep those good paying jobs.

John Warner Smith  
Secretary  
0709#049

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
State Uniform Construction Code Council**

State Uniform Construction Code  
(LAC 55:VI.707 and 1301-1307)

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730:22(C) and (D), R.S. 40:1730.34(B), R.S. 40:1730.37 and R.S. 40:1730.38 relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction Code Council hereby proposes to enact rules under Chapter 7 to provide for continuing education units for those individuals holding certificates of registration and enact rules under Chapter 13 relating to code enforcement violations.

**Title 55**

**PUBLIC SAFETY**

**Part VI. Uniform Construction Code**

**Chapter 7. Certificates of Registration**

**§707. Continuing Education Requirements**

A. Prior to annual renewal of the Certificate of Registration as required by this Chapter, all building code enforcement officers and third-party providers, except Louisiana licensed architects or engineers as allowed by R.S. 40:1730.24(B), shall be registered with the International Code Council and obtain the continuing education units required for that registry.

B. Building code enforcement officers holding provisional certificates of registration and prior to certification and registration with the International Code Council shall provide evidence of one continuing education unit relating to construction code enforcement for the preceding year.

C. Prior to annual renewal of the certificate of registration, Louisiana licensed architects and engineers

exempted by R.S. 40:1730.24(B) shall provide evidence of one continuing education unit in construction code enforcement relating to Act 12 and which is acceptable to their respective organizations, for the preceding year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and R.S. 40:1730.38

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

### **Chapter 13. Code Enforcement Violations**

#### **§1301. General**

A. If the council has reason to believe that a person or authority having jurisdiction is violating or intends to violate a provision of this Part, it may order the person or authority having jurisdiction immediately to refrain from the conduct or to immediately start performing some specific act. The council may apply to the district court of the parish for an injunction restraining the person or authority having jurisdiction from the conduct or for a mandamus to compel the performance of a duty. The court may issue a temporary injunction ex parte not to exceed 10 days and upon notice a full hearing may issue other orders in the matter it considers proper. No bond is required of the council by the court as a condition to the issuance of an injunction or other order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and R.S. 40:1730.37

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

#### **§1303. Informal Proceedings**

A. If the council receives written information indicating that a person or authority having jurisdiction is violating or has violated any provision of R.S. 40:1730.21 et seq., or this Part, the council, after an investigation, may, in writing, order the person or authority having jurisdiction to immediately refrain from the conduct or violation or to immediately start performing some specific act.

B. Response. The person or authority having jurisdiction shall respond in writing to the council's informal notice within 10 days of receipt by providing the council with a written statement containing any information related to the allegations of the informal notice which would show compliance with state law or this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

#### **§1305. Investigation Procedures**

A. In investigating a complaint, the following measures shall be observed by the council.

1. Complainant must file a written complaint with the council. The complaint shall be made on the form provided by the council.

2. The completed complaint form shall be mailed, faxed or hand delivered to the council administrator.

3. Once the complaint is filed with the council administrator, a file on the matter shall be opened and maintained by the administrator. A separate complaint file shall be kept on each complaint.

4. The council administrator shall oversee the investigation. The investigation may be conducted by the council administrator or his designee.

5. Upon completion of the investigation, the council administrator shall prepare a report to the council's Code Enforcement Advisory Committee.

6. The Code Enforcement Advisory Committee shall review the file and make a determination as to a course of action.

7. Once the Code Enforcement Advisory Committee makes their determination then they send their recommendation to the council to be heard at the earliest available council meeting.

8. The council shall consider the Code Enforcement Advisory Committee's recommendation then vote on a course of action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

#### **§1307. Judicial Proceedings**

A. Injunction or Mandamus. In the event that the matter is not resolved during the informal proceedings, the council may file a petition for injunction or seek a writ of mandamus with the district court having jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and R.S. 40:1730.37.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

#### **Family Impact Statement**

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

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

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

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

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

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

Interested persons may submit written comments or requests for public hearing on this proposed rule change to Paeton Burkett, Attorney, Louisiana State Uniform Construction Code Council, 7979 Independence Boulevard, Suite 307Q, Baton Rouge, LA 70806. Comments will be accepted through close of business October 10, 2007

Jill Boudreaux  
Acting Undersecretary

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

**RULE TITLE: State Uniform Construction Code**

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

These rules will not result in an increase in implementation costs or savings to state or local governmental units. State law (La. R.S. 40:1730.38) mandates that the Council develop regulations setting forth continuing education requirements for code enforcement officers holding a certificate of registration. This rule merely requires code enforcement officers, when renewing their certificates of registration, to provide proof that they obtained the required continuing education credits. The credits that are being required by the Council are credits that code enforcement officers would have already obtained through their other occupational licenses or certifications. Furthermore, state law (La. R.S. 40:1730.37) provides judicial remedies for those that may be violating the provisions set forth in La. R.S. 40:1730.21 et seq. These rules merely provide for investigation and judicial proceedings procedures.

**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 since these rules only relate to code enforcement officer certificates of registration and enforcement procedures of the Council.

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

Those holding a certificate of registration with the Council will be directly affected by §707 as this rule requires them to provide proof of continuing education requirements upon renewal of their certificate. The rule will not have any effect on cost nor require a workload adjustment. The rule merely requires them to show proof of obtaining the continuing education requirements that they would have already obtained through their other occupational licenses or certifications. The Chapter 13 rules will directly affect persons or authorities having jurisdiction who may violate La. R.S. 40:1730.21 et seq.

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

There will be no effect on competition and employment as the proposed rule applies to all code enforcement officers and to all persons and authorities having jurisdiction.

Jill Boudreaux  
Acting Undersecretary  
0709#018

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Revenue  
Policy Services Division  
and  
Department of Social Services  
Office of the Secretary**

School Readiness Tax Credits  
(LAC 61:I.1903)

In accordance with R.S. 36:474, R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103, which allow the departments to make reasonable rules and regulations, the

Secretary of the Department of Revenue and the Secretary of the Department of Social Services propose to adopt 61:I.1903 relative to the administration of the school readiness tax credits.

The purpose of this regulation is to explain the procedure that will be employed for the administration of the school readiness tax credits and the documentation that will be required to claim one of the school readiness tax credits as set out in R.S. 47:6101 through 6109 as enacted by Act 394 of the 2007 Regular Session of the Louisiana Legislature.

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

**Family Impact Statement**

As required by Act 1183 of the Regular Session of the Louisiana Legislature, the following Family Impact Statement is submitted for publishing with the Notice of Intent in the Louisiana Register. A copy of this statement will also be provided to the legislative oversight committees.

1. **The Stability of the Family.** This Rule establishes the procedures for the implementation and administration of the school readiness tax credits. High quality early care and education supports strong families and successful children.

2. **The Authority and Rights of Parents Regarding the Education and Supervision of Their Children.** 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. **The Functioning of the Family.** These credits encourage facilities to provide quality child care and also encourage the placement of children in quality child care facilities. Having access to quality child care allows parents to enter the workforce and become successful and productive employees. Quality child care helps parents maintain the dual role of strong parents and productive employees.

4. **Family Earnings and Family Budget.** Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. **The Behavior and Personal Responsibility of Children.** High quality and stable child care help parents to work and is essential for workforce stability. Quality care costs more money but research from states with a quality rating system shows that it has not raised market prices in a significant way. Additionally, parents who place their children in qualifying child care facilities will receive a tax credit which will leave more money in the family.

6. **The Ability of the Family or a Local Government to Perform This Function.** Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 5:30 p.m., October 25, 2007. A public hearing will be held on October 26, 2007, at 10 a.m. in the River Room, on the seventh floor of the

**NOTICE OF INTENT**

**Department of Social Services  
Office of Family Support**

Cynthia Bridges  
Secretary, Department of Revenue

Child Care Quality Rating System (LAC 67:III.5115-5123)

and

Ann S. Williamson  
Secretary, Department of Social Services

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support proposes to adopt LAC 67:III.5115-5123, Subchapter C, Child Care Quality Rating System (QRS).

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: School Readiness Tax Credits**

Adoption of Subchapter C, Quality Rating System (QRS), is pursuant to the authority granted to the department by the Child Care and Development Fund (CCDF). As a result of the devastation resulting from Hurricanes Katrina and Rita, child care centers in Louisiana have struggled to rebuild in affected areas. In other parts of the state, the centers have expanded their capacity to serve these displaced families. In an effort to guide child care centers as they restore critically needed child care services, the agency has established a quality rating system which uses licensing as the foundation and sets a continuum of quality indicators focused in the social-emotional needs of children. The Quality Rating System will provide a mechanism by which child care centers can be assessed regarding the level of quality care given. The QRS will also provide a guide for parents to choose higher settings of child care beyond basic licensure and will offer a structure for child care centers to communicate the level of quality provided in their facility.

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

This Notice of Intent is preceded by a Declaration of Emergency effected May 1, 2007, and published in the May 2007 issue of the *Louisiana Register*; and also, a second Declaration of Emergency promulgated and issued August 17, 2007.

Any agency costs associated with the implementation of the rule will come from the current operating budget of the Department of Revenue. In the fiscal note for Act 160 (SB 361), the Department of Revenue requested appropriations totaling \$257,000 for FY 2008-2009 for seven new positions and \$100,000 for one-time computer system modifications. The Department was not allocated any additional positions to administer and implement the school readiness tax credits so current staff will divert time from other assignments to administer these credits. The department will also divert funds already in its budget away from other projects to make the necessary computer system changes. This diversion will delay long-term modifications and improvements to the department's computer systems. The implementation of this proposed regulation will have no impact upon any local governmental units.

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

There will be a significant effect on the revenue collections of state government. If the numbers for all credits are added together the fiscal impact on state revenue collections will be as follows: Fiscal Year 2008-2009 \$7,100,000; Fiscal Year 2009-2010 \$10,600,000 and Fiscal Year 2010-2011 24,700,000. 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 NON-GOVERNMENTAL GROUPS (Summary)**

Individuals with children five or under in child care, child care facilities, child care directors and staff, and businesses who contribute to and help improve child care facilities will all receive an economic benefit in the form of a tax credit. Child care facilities may incur very minor costs associated with providing tax credit certificates to the individuals who are claiming the child care expense portion of the credit.

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

While there will be no direct effect on competition and employment, the effective subsidy of child care costs will make it economically feasible for some individuals to take jobs when they could not afford to do so without the subsidy. Additionally, the credit may create competition amongst child care providers to reach the higher levels so that they can receive a greater benefit in the form a higher tax credit.

Cynthia Bridges  
Secretary  
0709#055

Robert E. Hosse  
Staff Director  
Legislative Fiscal Officer

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 12. Child Care Assistance**

**Chapter 51. Child Care Assistance Program**

**Subchapter C. Child Care Quality Rating System**

**§5115. Authority**

A. The Child Care Quality Rating System is established and administered under the authority of state and federal laws.

**AUTHORITY NOTE:** Promulgated in accordance with 45 CFR Part 98 and R.S. 36:474.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Family Support, LR 33:

**§5117. Definitions**

*Approved Courses*—courses that are deemed approved by the department.

*Assistant Directors*—must be on site for a minimum of 20 hours per week for centers with an enrollment of 101 or more.

*Assistant Teachers*—any staff who cares for children at least 16 or more hours per week and is not a lead teacher and meets the assistant teacher criteria.

*Child Care Center*—a licensed day care center.

*Child Care Resource and Referral (CCR&R)*—a state and/or local organizations with whom the department has

contracted to provide services to families, early childhood professionals, and communities statewide.

*Child Development Associate (CDA) Credential*—a nationally recognized credential which can be used to meet staff qualification requirements.

*Director*—an administrator who meets the director qualifications and is on-site a minimum of 30 hours per week. This requirement can be met by having one or more persons on site who meet these qualifications.

*Early Childhood Environment Rating Scale*—Revised (ECERS-R)—a research-based assessment tool that measures environmental indicators of quality in preschool classrooms with children ages 2.5-5 years of age.

*Environment Rating Scales (ERS)*—the assessment tools developed at Frank Porter Graham Child Development Institute at the University North Carolina that measure environmental indicators of quality. They include the Infant Toddler Environment Rating Scale-Revised (ITERS-R) and the Early Childhood Environment Rating Scale-Revised (ECERS-R), as well as the School Age Care Environment Rating Scale (SACERS) for school age programs, and the Family Child Care Environment Rating Scale, Revised (FCCERS-R) for family child care homes.

*Group*—those children who are assigned for most of the day to a specific teacher and who occupy an individual classroom or well defined space that prevents intermingling of children from different groups within a larger group or area.

*Infant Toddler Environment Rating Scale-Revised (ITERS-R)*—a research-based assessment tool that measures environmental indicators of quality in preschool classrooms with children 0-2.5 years of age.

*Lead Teacher*—a teacher who has primary responsibility for a designated classroom including, planning and supervision and spends at least 25 hours a week in that classroom. All classrooms must have a lead teacher.

*Louisiana Pathways Child Care Career Development System*—the state practitioner registry maintained by the Department of Social Services and/or its contractor. LA Pathways registers child care directors and staff according to requirements based on training and education, experience, and professional activities, as approved by the Department of Social Services. Categories are established for child care staff, child care assistant teacher, child care teacher, child care assistant director and child care director. Information on LA Pathways can be found at <http://pathways.louisiana.gov/> or [www.dss.state.la.us](http://www.dss.state.la.us).

*Quality Rating System (QRS) Points*—points given in the Program, Staff Qualifications, Administrative Practices, and Family and Community Involvement areas. All items within a point must be verified to receive credit. The total points earned determine the star award at star rating 3, 4, and 5.

*Service Period*—the months within the calendar quarter for which a child received care.

*Social Emotional Subscales of the Environment Rating Scales*—a subscale of the ECERS-R and ITERS-R generated by the scores earned on the Language-Reasoning, Interaction and Program Structure subscales of the ECERS-R and the Listening and Talking, Interaction and Program Structure subscales of the ITERS-R. This new subscale score will be used to determine the ERS score for Program Points 1-4.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

### §5119. Quality Rating System Requirements

A. The Child Care Quality Rating System (QRS) is designed to assess levels of child care, support improvements of child care centers, and communicate the level of quality in early care and education programs. The QRS consists of five star ratings that can be earned by a licensed child care center, uses licensing as the foundation, and has four star ratings above Louisiana's licensing standards. The system components (Administrative Practices, Family and Community Involvement, Program, and Staff Qualifications) have indicators that must be achieved to earn the star rating.

1. Foundation One Star—to participate at the one-star level, a child care center shall have a license to operate and comply with standards as defined in LAC 48:I.5301-5354.

2. Foundation Two Star—to earn a two-star award, a child care center must meet all the standards for a Foundation One Star, have been in operation for six months, and meet the following.

- a. Administrative Practices
  - i. Written personnel policies including:
    - (a). operational hours;
    - (b). dress code;
    - (c). use of telephone; and
    - (d). schedule.
  - ii. Job descriptions that include list of qualifications on file and provided to all staff.
  - iii. Provide one staff benefit from the list of options below for all full-time staff. Staff benefit options:
    - (a). employee health insurance or comparable health benefits;
    - (b). paid annual leave;
    - (c). paid sick leave;
    - (d). paid holidays;
    - (e). child care benefit/discount;
    - (f). bonus based on merit/achievement or education;
    - (g). retirement compensation;
    - (h). annual increments based on merit;
    - (i). tuition reimbursement and other related educational expenses such as books, travel, fees, substitutes;
    - (j). differential shift pay;
    - (k). flextime;
    - (l). pay professional association membership fee.
- b. Family and Community Involvement
  - i. Parent provided pre-enrollment visit and center tour.
  - ii. Give every parent enrolling a child a list of community resources including, but not limited to, LaCHIP, Medicaid, child care assistance, housing assistance, food stamps and information on a child's medical home.
- c. Program
  - i. Make four of the following activity areas available daily:
    - (a). art and creative play;
    - (b). children's books;

- (c). blocks and block building;
- (d). manipulatives; and
- (e). family living and dramatic play.
- ii. Complete a self assessment of program and develop an improvement plan.
- d. Staff Qualifications
  - i. Directors and teachers must join and maintain a current record with the Louisiana Pathways Child Care Career Development System Registry. A director must complete three hours of Environment Rating Scales training.
  - ii. Director (on-site)—
    - (a). three semester hour credits in care of young children or child development<sup>1</sup>; and
    - (b). three semester hour credits in administration<sup>2</sup>; and
    - (c). one year experience in teaching young children in an early childhood program.
  - iii. Assistant Director—
    - (a). three semester hour credits in care of young children or child development.<sup>1</sup>

iv. Teacher—75 percent of lead teachers must meet one of the following:

- (a). complete three semester hour credits course in care of young children or child development<sup>1</sup> from a list of approved courses or enroll in the course and complete within one year of employment.

3. Point Standards for child care centers seeking three star rating, four star rating, and five star ratings. To achieve a higher rating, a child care center must meet all requirements of the foundation two star and earn points in the program and staff qualifications by meeting the requirements listed below. At least one point must be earned in each program and staff qualifications. The quality point referenced in Subparagraph 3.c. may also be earned. The total number of points will determine the star rating awarded to the center.

Total Number of Points	Star Rating
3-5 points	Three Stars
6-9 points	Four Stars
10-11 points	Five Stars

a. Program

Points	Criteria								
1	An average of 3.75 on the designated social-emotional subscale of the Environment Rating Scales (ERS) <sup>3</sup> , with no one classroom score lower than 3.0 on the subscale.								
2	An average of 4.0 on the designated social-emotional subscale of the ERS <sup>3</sup> with no one classroom score lower than 3.0 on the subscale.								
3	<ol style="list-style-type: none"> <li>1. An average of 4.25 on the designated social-emotional subscale of the ERS<sup>3</sup> with no one classroom score lower than 3.25 on the subscale.</li> <li>2. Staff: Child Ratio and Group Size               <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">0-12 months 1:4,8</td> <td style="width: 25%;">25-36 months 1:8, 16</td> <td style="width: 25%;">4 yrs 1:12, 24</td> <td style="width: 25%;">6 yrs &amp; up 1:20, 30</td> </tr> <tr> <td>13-24 months 1:6,12</td> <td>3 yrs 1:10, 20</td> <td>5 yrs 1:15, 30</td> <td></td> </tr> </table> </li> <li>3. Written transition procedures for children moving within a program or to other programs or beginning school.</li> </ol>	0-12 months 1:4,8	25-36 months 1:8, 16	4 yrs 1:12, 24	6 yrs & up 1:20, 30	13-24 months 1:6,12	3 yrs 1:10, 20	5 yrs 1:15, 30	
0-12 months 1:4,8	25-36 months 1:8, 16	4 yrs 1:12, 24	6 yrs & up 1:20, 30						
13-24 months 1:6,12	3 yrs 1:10, 20	5 yrs 1:15, 30							
4	<ol style="list-style-type: none"> <li>1. An average of 4.5 on the designated social-emotional subscale of the ERS with no one classroom score lower than 3.5 on the overall ERS.</li> <li>2. Complete screening for social-emotional development with instrument from recommended list for all children (0-5 yrs.) within 45 calendar days of enrollment and annually thereafter. Conference with parents to review results and provide a list of community resources.</li> <li>3. Staff: Child Ratio and Group Size               <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">0-12 months 1:4, 8</td> <td style="width: 25%;">25-36 months 1:8, 16</td> <td style="width: 25%;">4 yrs 1:12, 24</td> <td style="width: 25%;">6 yrs &amp; up 1:20, 30</td> </tr> <tr> <td>13-24 months 1:6, 12</td> <td>3 yrs 1:10, 20</td> <td>5 yrs 1:15, 30</td> <td></td> </tr> </table> </li> <li>4. Written transition procedures for children moving within a program or to other programs or beginning school.</li> </ol>	0-12 months 1:4, 8	25-36 months 1:8, 16	4 yrs 1:12, 24	6 yrs & up 1:20, 30	13-24 months 1:6, 12	3 yrs 1:10, 20	5 yrs 1:15, 30	
0-12 months 1:4, 8	25-36 months 1:8, 16	4 yrs 1:12, 24	6 yrs & up 1:20, 30						
13-24 months 1:6, 12	3 yrs 1:10, 20	5 yrs 1:15, 30							
5	<ol style="list-style-type: none"> <li>1. An average of 5.0 on the overall ERS, with no one classroom score lower than 4.0.</li> <li>2. Complete screening for social-emotional development with instrument from recommended list for all children (0-5 yrs.) within 45 calendar days of enrollment and annually thereafter. Conference with parents to review results and provide a list of community resources.</li> <li>3. Provide a plan for continuity of care for all children 0-36 months of age.</li> <li>4. Implementation of Louisiana's Early Learning Guidelines and Program Standards; Birth through Three, (DSS October 2006)and the Louisiana Standards for Programs Serving Four-Year-Old Children (DOE June 2003).</li> <li>5. Staff: Child Ratio and Group Size:               <ul style="list-style-type: none"> <li>0-24 months 1:4, 8</li> <li>2 yrs 1:6, 12</li> <li>3 yrs 1:8, 16</li> <li>4 yrs 1:10, 20</li> <li>5 yrs 1:10, 20</li> <li>6 yrs and up 1:12, 24</li> </ul> </li> </ol>								

b. Staff Qualifications

Points	Criteria
1	<p>All teachers and directors complete three hours of ERS training.</p> <p>Director (on-site)</p> <ol style="list-style-type: none"> <li>1. Six semester hour credits in care of young children or child development<sup>1</sup>, and</li> <li>2. Three semester hour credits in administrative coursework<sup>2</sup>, and</li> <li>3. One year experience teaching young children in an early childhood program.</li> </ol> <p>Assistant Director</p> <p>Three semester hour credits in care of young children or child development.<sup>1</sup></p> <p>Lead Teacher</p> <p>All of Lead Teachers must complete three semester hour credits in care of young children or child development from a list of approved courses<sup>1</sup> or enroll in the course and complete within one year of employment.</p> <p>Assistant Teacher</p> <p>50% of Assistant Teachers must have completed or be enrolled in three semester hour credits in the care of young children or child development<sup>1</sup> and complete the course within one year of employment.</p>
2	<p>All teachers and directors complete three hours of ERS training.</p> <p>Director</p> <ol style="list-style-type: none"> <li>1. Nine semester hour credits in care of young children or child development<sup>1</sup>, and</li> <li>2. Three semester hour credits in administrative coursework<sup>2</sup>, and</li> <li>3. One year of teaching experience and one year teaching or administrative experience in an early childhood program.</li> </ol> <p>Assistant Director</p> <ol style="list-style-type: none"> <li>1. Three semester hour credits in care of young children or child development<sup>1</sup>, and</li> <li>2. Three semester hour credits in administrative coursework<sup>2</sup>, and</li> <li>3. One year experience in teaching young children in an early childhood program.</li> </ol> <p>Lead Teacher</p> <ol style="list-style-type: none"> <li>1. 75% of Lead Teachers must have completed six semester hour credits in the care of young children or child development<sup>1</sup> from a list of approved courses or have completed three semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework<sup>1</sup> and complete within one year of employment, and</li> <li>2. One year full-time experience in an early childhood setting.</li> </ol> <p>Assistant Teacher</p> <p>50% of Assistant Teachers must have completed or be enrolled in three semester hour credits in the care of young children or child development<sup>1</sup> and complete the course within one year of employment.</p>
3	<p>Directors and all teachers complete six hours of ERS training. Directors and lead teachers complete training in social-emotional screening of children. Director completes training in Louisiana's Early Learning Guidelines and Program Standards Birth Through Three (DSS October 2005) and the LA Content Standards for Programs Serving Four-Year-Old Children (DOE June 2003).</p> <p>Director</p> <ol style="list-style-type: none"> <li>1. Twelve semester hours in care of young children or child development<sup>1</sup>, and</li> <li>2. Six semester hours of administrative coursework<sup>2</sup>, and</li> <li>3. One year teaching experience and 1 year administrative experience and one year teaching or administrative experience in an early childhood setting for a total of three years experience.</li> </ol> <p>Assistant Director</p> <ol style="list-style-type: none"> <li>1. Three semester hour credits in care of young children or child development<sup>1</sup>, and</li> <li>2. Three semester hour credits in administrative coursework<sup>2</sup>, and</li> <li>3. One year experience in teaching young children in an early childhood program.</li> </ol> <p>Lead Teacher</p> <ol style="list-style-type: none"> <li>1. 75% of Lead Teachers must have completed nine semester hour credits in the care of young children or child development<sup>1</sup> from a list of approved courses or have completed six semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework<sup>1</sup> and complete within one year of employment, and</li> <li>2. One year full-time experience in an early childhood setting.</li> </ol> <p>Assistant Teacher</p> <p>50% Assistant Teachers must have completed three semester hour credits in the care of young children or child development<sup>1</sup>.</p>

Points	Criteria
4	<p>Directors and all teachers complete 6 hours of ERS training. Directors and all teachers complete training in social-emotional screening of children and developing individual instructional plans for children based on specific developmental needs. Directors and lead teachers complete training in Louisiana's Early Learning Guidelines and Program Standards Birth Through Three, (DSS October 2005) and the LA Content Standards for Programs Serving Four-Year-Old Children (DOE June 2003).</p> <p><b>Director</b></p> <ol style="list-style-type: none"> <li>1. Fifteen semester hour credits in the care of young children or child development<sup>1</sup>, and</li> <li>2. Six semester hour credits of administrative coursework<sup>2</sup>, and</li> <li>3. One year teaching experience and one year administrative experience and two years teaching and/or administrative experience in an early childhood setting for a total of four years experience.</li> </ol> <p><b>Assistant Director</b></p> <ol style="list-style-type: none"> <li>1. Three semester hour credits in care of young children or child development<sup>1</sup>, and</li> <li>2. Three semester hour credits in administrative coursework<sup>2</sup>, and</li> <li>3. One year experience in teaching young children in an early childhood program.</li> </ol> <p><b>Lead Teacher</b></p> <ol style="list-style-type: none"> <li>1. 75% of Lead Teachers must have completed 12 semester hour credits in the care of young children or child development<sup>1</sup> from a list of approved courses or have completed nine semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework<sup>1</sup> and complete within one year of employment, and</li> <li>2. Two years full-time experience in an early childhood setting.</li> </ol> <p><b>Assistant Teacher</b></p> <p>All Assistant Teachers must have completed three semester hour credits in the care of young children or child development<sup>1</sup>.</p>
5	<p>Directors and all teachers complete six hours of ERS training. Directors and all teachers complete training in social-emotional screening of children and developing individual instructional plans for children based on specific developmental needs. Directors and all teachers complete training in Louisiana's Early Learning Guidelines and Program Standards Birth Through Three, (DSS October 2005) and the LA Content Standards for Programs Serving Four-Year-Old Children (DOE June 2003).</p> <p><b>Director</b></p> <ol style="list-style-type: none"> <li>1. Associate's degree in the care of young children, child development or related field, with specific coursework in infant-toddler care, care of exceptional children and care of school age children or equivalent such as Director III LA Pathways and/or including,</li> <li>2. Six semester hour credits or 75 hrs of administrative training<sup>2</sup>, and</li> <li>3. One year teaching experience and one year administrative experience and three years teaching and/or administrative experience in an early childhood setting for a total of five years experience.</li> </ol> <p><b>Assistant Director</b></p> <ol style="list-style-type: none"> <li>1. Six semester hour credits in care of young children or child development<sup>1</sup>, and</li> <li>2. Three semester hour credits in administration<sup>2</sup>, and</li> <li>3. One year experience in teaching young children in an early childhood program.</li> </ol> <p><b>Lead Teacher</b></p> <ol style="list-style-type: none"> <li>1. All Lead Teachers must have six semester hour credits in the care of young children or child development<sup>1</sup> from a list of approved courses, and</li> <li>2. 75% of Lead Teachers must have completed 15 semester hour credits in the care of young children or child development<sup>1</sup> from a list of approved courses or have completed 12 semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework<sup>1</sup> and complete within a year of employment, and</li> <li>3. Two years full-time experience in an early childhood setting for all teachers.</li> </ol> <p><b>Assistant Teacher</b></p> <p>All Assistant Teachers must have completed six semester hour credits in the care of young children or child development<sup>1</sup> or have completed three semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework<sup>1</sup> and complete within one year of employment.</p>

c. An additional quality point can be earned by meeting additional requirements in both the administrative practices and the family/community involvement areas.

Quality Point	
Points	Criteria
1	<p>Administrative Practices—meet three requirements below</p> <ol style="list-style-type: none"> <li>1. Provide four of the benefits from the list* of options below for all full time staff.</li> <li>2. Include grievance procedure and a professional conduct code for staff in written personnel policies.</li> <li>3. Pay scale based on education, experience, responsibilities and merit.</li> <li>4. Provide training to staff on cultural sensitivity.</li> <li>5. Written parent and staff confidentiality policy and provide training to staff and</li> </ol> <p>Family/Community Involvement—meet four requirements below</p> <ol style="list-style-type: none"> <li>1. Participate in meetings for directors provided by Resource and Referral agency at least quarterly, with the director or assistant director attending 50% of the meetings.</li> <li>2. Provide a complaint process for parents.</li> <li>3. Offer opportunity for a formal parent/teacher conference meeting annually.</li> <li>4. Provide an expanded list of local community resources to parents annually including, but not limited to, LaCHIP, Medicaid, child care assistance, housing assistance, food stamps and information on a child's medical home.</li> <li>5. Parent Advisory Council meets annually to review policies, procedures and parent handbook.</li> <li>6. One group meeting per year offered to all families.</li> </ol> <p>One parent education workshop offered per year by center or other agency.</p>

The following footnotes reference program criteria and staff qualifications in Section 5119:

**Staff Qualifications**

<sup>1</sup>The following may be substituted to meet this requirement of three semester hour credits in the care of young children or child development: a CDA or have approved high school child development courses or have five years full-time experience in an early childhood program or have completed a Child Care Assistant Teacher 1 LA Pathways Classroom Certificate. The following may be used to meet the requirement of up to six semester hour credits in the care of young children or child development: CDA or have completed a Child Care Assistant Teacher 2 LA Pathways Classroom Certificate. An individual may use the above substitutions to meet the requirements for a maximum of six semester hour credits.

<sup>2</sup>The following may be substituted to meet the requirement for three semester hour credits in administration: LA Pathways Administrator Certificate or National Administrator Credential (NAC) or three years experience in administration or a combination of one year in administration experience and four years in teaching young children in an early childhood program.

NOTE For Director Qualification: Experience in teaching young children or administration may only be substituted one time. At the next QRS review, the necessary educational requirement (credits in the care of young children or child development or credits in administration) must be met.

<sup>3</sup>For the purpose of this document, the designated social-emotional subscale of the ERS is defined as consisting of the following subscales: ITERS-R—Listening and Talking, Interaction and Program Structure; ECERS-R—Language-Reasoning, Interaction and Program Structure.

\*Staff benefits options: employee health insurance or comparable health benefits; paid annual leave; paid sick leave; paid holiday; child care benefit/discount; bonus based on merit/achievement or education; retirement compensation; annual increments based on merit; tuition reimbursement and other related educational expenses such as books, travel, fees, substitutes; differential shift pay, flextime, paid professional association fee.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

**§5121. Participation**

A. A child care center will complete the application for participation in the Quality Rating System. A quality rating verification visit will be conducted by the Department and one or more stars may be awarded.

B. Quality ratings will be valid for one year from the date of the star rating award. Ratings will have to be earned annually through the quality rating verification process.

C. Centers with one-star award may apply for a quality rating verification after receiving their one-star award. Centers with more than one-star may apply for a quality rating review six months after the date of their current rating award.

D. Centers that have achieved a star rating will have their rating revoked if the child care license is revoked or if the child care center is referred to the designated licensing committee with a recommendation from the department for revocation.

E. Centers that have achieved a star rating may have their rating reviewed and modified if, at any time, it becomes known to the department or the department receives information or has actual knowledge that the child care center no longer meets standards for the center's current star rating award.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

**§5123. Quality Rating System Awards**

A. Bonus payments will be issued after the end of each calendar quarter to Class A child care centers that care for children receiving assistance from the Child Care Assistance Program and for children in the state's Foster Care Program in accordance with the star rating for the service(s) period for that quarter. The payment is equal to a percentage, as defined below, of all child care subsidy payments received from the department by the Class A center for services provided during the service period(s) based for that quarter on the center's rating(s):

1. one star—0 percent;
2. two star—3 percent;
3. three star—8 percent;
4. four star—13.5 percent;
5. five star—20 percent.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

**Family Impact Statement**

1. What effect will this Rule have on the stability of the family? This Rule establishes the quality rating system and criteria for achieving stars. High quality early care and education supports strong families and successful children.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? Having access to quality child care allows parents to enter the workforce and become successful and productive employees. Quality child care helps parents maintain the dual role of strong parents and productive employees.

4. What effect will this have on family earnings and family budget? High quality and stable child care help parents to work and is essential for workforce stability. Quality care costs more money but research from states with a quality rating system shows that it has not raised market prices in a significant way.

5. What effect will this have on the behavior and personal responsibility of children? Research shows that quality child cares positively impacts children's behavior. In fact, the success of children in high quality child care indicates that the long term results are not just from making children "smarter," but from helping children attain needed social, emotional, and behavioral benefits. Program effects of increased IQ may diminish over time, whereas the social, emotional, and behavioral gains appear to be more stable and lasting.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

All interested persons may submit written comments through, October 25, 2007, to Adren O. Wilson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

A public hearing on the proposed Rule will be held on October 25, 2007, at the Department of Social Services, Iberville Building, 627 North Fourth Street, Seminar Room

1-129, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Ann S. Williamson  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Child Care Quality Rating System**

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

The Department proposes to adopt Subchapter C, Quality Rating System (QRS), granted by the authority of the Child Care and Development Fund (CCDF). The Quality Rating System provides a mechanism by which child care centers can be assessed regarding the level of quality care given, offers a structure for child care centers to communicate the level of quality offered, and provides a guide for parents to choose higher settings of child care beyond basic licensure.

The implementation cost for QRS is anticipated to be \$13.2 million for FY 07/08, \$13.5 million for FY 08/09, and \$14.3 million for FY 09/10. The costs are for 18 additional staff who will award the quality ratings of centers, training and technical assistance to help centers improve the quality of service, grants to help centers make changes that facilitate enhanced quality, tiered payments to providers based on the quality of care offered to children, contracts to add needed features to information technology, management of the Environmental Rating Scale assessment project, and the cost of publishing rulemaking. The costs are based on 1,762 child care centers that currently exist in Louisiana and from information derived from other states that have quality rating systems. Federal Child Care and Development funds have been appropriated in FY 07/08 to cover these costs. It is anticipated that sufficient CCDF funds will also be appropriated in subsequent fiscal years to cover the respective costs.

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

This rule will have no effect on revenue collections of State or local governmental units.

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

The QRS will benefit participating child care centers by providing training, assistance, and monetary incentives that will encourage a higher standard of care for children. Families who participate in QRS will benefit from receiving a higher standard of care for their children.

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

Child care employees who achieve higher educational or professional development levels could qualify for better employment opportunities

Adren O. Wilson  
Assistant Secretary  
0709#060

Robert E. Hosse  
Staff Director  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Transportation and Development  
Professional Engineering and Land Surveying Board**

Technical Revisions  
(LAC 46:LXI.707, 2305, 2307, 2505, 2701, and 2907)

Under the authority of the Louisiana Professional Engineering and Land Surveying Licensure Law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Professional Engineering and Land Surveying Board has initiated procedures to amend its Rules contained in LAC 46:LXI.Chapters 1 through 33.

The amendments are primarily technical housekeeping revisions of existing board rules.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXI. Professional Engineers and Land Surveyors  
Chapter 7. Bylaws**

**§707. Board Organization**

A. - B. ...

C. Date of Elections. The election of board officers shall take place not later than at the board's November meeting. In the event that an officer cannot complete his/her term, an election in order to fill the unexpired term shall be scheduled at the earliest practical regular or special meeting.

D. - E.12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:110 (May 1979), LR 11:1179 (December 1985), LR 19:54 (January 1993), LR 21:1353 (December 1995), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1024 (July 2001), LR 30:1707 (August 2004), LR 33:

**Chapter 23. Firms**

**§2305. Supervising Professional**

A.1 In the case of firms providing or offering to provide professional services in the state of Louisiana, all such professional services shall be executed under the responsible charge of a licensed professional, and designated by the firm as a supervising professional. Such licensed professional shall be an active employee of the firm:

a. - b. ...

2. When the work consists of plans, designs, specifications, reports or maps, such licensed professional shall affix his/her seal, signature and date to them, as required by law. The appearance of a seal on a document of any type shall constitute a representation that such document was prepared by the licensed professional or under his/her responsible charge.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:115 (May 1979), amended LR 8:191 (April 1982), LR 10:343 (April 1984), LR 11:362 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1036 (July 2001), LR 30:1719 (August 2004), LR 33:

### **§2307. Professional Identification**

A. Letterheads, business cards, advertisements and other similar identifying items issued by firms providing or offering to provide professional services in the state of Louisiana shall reflect the exact firm name contained on its certificate of licensure issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:116 (May 1979), amended LR 8:191 (April 1982), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1036 (July 2001), LR 30:1720 (August 2004), LR 33:

## **Chapter 25. Professional Conduct**

### **§2505. Services**

A. - B. ...

C. Licensees shall not affix their signatures or seals to any plans or documents dealing with subject matters in which they lack competence, nor to any such plan or document not prepared under their responsible charge. Responsible charge requires a licensee or employee to carry out all client contacts, provide internal and external financial control, oversee employee training, and exercise control and supervision over all job requirements to include research, planning, design, field supervision and work product review. A licensee shall not contract with a non-licensed individual to provide these professional services. Research, such as title searches and soil testing, may be contracted to a non-licensed individual, provided the licensee reviews the work. The professional engineer and professional land surveyor may affix their seal, signature and date to drawings and documents depicting the work of two or more professionals provided that a note under the seal designates the specific subject matter for which each is responsible.

D. Licensees may accept an assignment outside of their areas of competence to the extent that their services are restricted to those phases of the project in which they are qualified, and to the extent that they are satisfied that all other phases of such project will be performed or supervised by licensed, qualified associates, consultants, or employees, in which case they may then seal, sign and date the documents for the total project.

E. - F.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1037 (July 2001), LR 30:1721 (August 2004), LR 32:1620 (September 2006), LR 33:

## **Chapter 27. Use of Seals**

### **§2701. Seal and Signature**

A. The following rules for the use of seals to identify work performed by a professional engineer or professional land surveyor shall be binding on every licensee.

1. - 1.a.ii. ...

2. Seal Design and Signature Requirements

a. - e. ...

f. A seal must always be accompanied by the licensee's signature and date. Electronic signatures are not authorized except for electronic transmission of work as stated herein below.

\* \* \*

3. Seal Responsibility

a. ...

b. Responsible Charge

i. - i.(d).(ii). ...

ii. No licensee shall affix his/her seal or signature to reports, plats, sketches, working drawings, specifications, design calculations, or other engineering and land surveying documents developed by others not under his/her responsible charge and not subject to the authority of that licensee, except:

(a). in the case of an individual licensee checking the work of and taking the professional responsibility for an out-of-state individual licensee, the Louisiana licensee shall completely check and have responsible charge of the design. Such responsible charge shall include possession of the sealed, signed and dated reproducible construction drawings, with complete sealed, signed and dated design calculations indicating all changes in design;

(b). certification of standard design plans which are initially prepared and sealed by a professional engineer properly licensed in the jurisdiction of origin of such plans. Standard design plans may then be reviewed by a Louisiana resident professional engineer for code conformance, design adequacy, and site adaption for the specific application within Louisiana. The professional engineer licensed in Louisiana assumes responsibility for such standard designs. Standard plans, which bear the seal of a professional engineer licensed in another state, territory, or possession of the United States, or the District of Columbia, shall be sealed, signed and dated by the Louisiana resident professional engineer who is assuming responsibility. In addition to the seal, signature and date, a statement shall be included as follows:

"These plans have been properly examined by the undersigned. I have determined that they comply with existing local Louisiana codes, and have been properly site adapted to use in this area."

(c). certification of single family residential design plans for conformance with applicable state and local building codes. Such plans shall be sealed, signed and dated by the professional engineer who is making such certification. In addition to the seal, signature and date, a statement shall be included as follows:

"These plans have been properly examined by the undersigned. I have determined that they comply with the following existing state and local building codes for the jurisdiction in which the residence is to be located (check all that apply):  structural;  mechanical;  electrical;  plumbing."

iii. No licensee shall affix his/her seal, signature or date to documents having titles or identities excluding the licensee's name unless:

(a) - (c). ...

4. Seal Use

a. Completed Work

i. - i.(a). ...

ii. Drawings and Plats

(a). In the case of multiple sealings, the first sheet or title page shall be sealed, signed and dated by the licensee or licensees in responsible charge. In addition, each sheet shall be sealed, signed and dated by the licensee or licensees responsible for each sheet.

(b). In the case of a firm, each sheet shall be sealed, signed and dated by the licensee or licensees responsible for that sheet and the licensee(s) in responsible charge shall seal, sign and date the title page or first sheet.

iii. Specifications, Reports, Design Calculations and Information

(a). In the case of specifications or reports of multiple pages, the first sheet or title page of each document shall be sealed, signed and dated by the licensee or licensees involved. Subsequent revisions shall be dated and initialed by the licensee in responsible charge whose seal, signature and date appears on the first sheet or title page.

(b). In the case of a firm, the licensee in responsible charge shall seal, sign and date the title page or first sheet.

b. Preliminary Work

i. All preliminary documents, so marked in large bold letters, shall contain a statement that the documents are not to be used for construction, bidding, recordation, conveyance, sales, or as the basis for the issuance of a permit. Preliminary documents are not required to have the licensee's seal, signature and date affixed, but must bear the name and licensure number of the licensee, and the firm's name, if applicable.

c. - c.i.(e). ...

5. Electronic Transmission

a. Drawings, specifications, plans, reports or other documents which require a seal may be transmitted electronically provided the seal, signature and date of the licensee is transmitted in a secure mode that precludes the seal, signature and date being produced or modified. Drawings, reports or documents which are signed using a digital signature as defined in the rules shall contain the authentication procedure and a list of the hardware, software, and parameters used to prepare the document(s).

b. ...

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AUTHORITY NOTE: Promulgated in accordance with R.S. 37:696.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:192 (April 1982), amended LR 12:692 (October 1986), LR 16:774 (September 1990), LR 17:273 (March 1991), LR 19:58 (January 1993), LR 22:287 (April 1996), LR 23:869 (July 1997), amended by the Louisiana Legislature, House Concurrent Resolution Number 2 of the 1998 First Extraordinary Session, LR 24:1207 (June 1998), repromulgated by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 25:1525 (August 1999), amended LR 27:1039 (July 2001), LR 30:1723 (August 2004), LR 33:

## Chapter 29. Minimum Standards for Property Boundary Surveys

### §2907. Property Boundary Survey

A. - B. ...

C. Product. A property boundary survey will result in the establishment of monumented corners; point of curvature and tangency; and reference points (see Subsection E, "Monuments"). In event that no plat of survey is required, the professional land surveyor must maintain adequate records to substantiate his professional opinion in reestablishing boundary lines and corners on a survey. If requested by the client, a boundary survey may also include the following:

1. a sealed, signed and dated metes and bounds written description depicting the surveyed boundary (see Subsection H, "Descriptions");

2. ...

3. a sealed, signed and dated written report of the surveyor's findings and determinations.

D. - F.7. ...

G. Plats, Maps, and Drawings. Every original plat or map of a boundary survey should be a reproducible drawing at a suitable scale which clearly shows the results of the field work, computations, research and record information as compiled and checked. The plat map or drawing shall be prepared in conformity with the following guidelines.

1. - 14. ...

15. Each plat, map or drawing shall show the following:

a. - e. ...

f. signature and seal of the professional land surveyor under whose direction the survey was done.

16. Final plats or maps issued to the client must contain a certificate sealed, signed and dated by the professional land surveyor certifying its authenticity (that it represents his/her survey) and stating that the survey is in accordance with the applicable standards of practice as stipulated in this publication based on the current survey "classification" (see §2905 on Classification of Surveys).

H. Descriptions. A written legal description of the surveyed tract of land must provide information to properly locate the property on the ground and distinctly set it apart from all other lands. The following guidelines apply.

1. - 10. ...

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11. The metes and bounds description shall then be sealed, signed and dated by the land surveyor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1065 (December 1990), amended LR 19:58 (January 1993), LR 22:714 (August 1996), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1043 (July 2001), LR 30:1726 (August 2004), LR 33:

### Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*. The proposed Rule have no known impact on family formation, stability or autonomy.

Interested parties are invited to submit written comments on the proposed Rule through October 10, 2007, at 4:30 p.m., to Donna D. Sentell, Executive Secretary, Louisiana Professional Engineering and Land Surveying Board, 9643 Brookline Avenue, Suite 121, Baton Rouge, LA 70809-1433.

Donna D. Sentell  
Executive Secretary

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

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

There will be no costs or savings to state or local governmental units resulting from this rule change.

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

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

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

The proposed rule change will have no impact on costs and/or economic benefits to directly affected persons or non-governmental groups.

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

The proposed rule change will have no effect on competition and employment.

Robert E. Eddleman  
Deputy Executive Secretary  
0709#029

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Removal of Abandoned Crab Traps (LAC 76:VII.367)**

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend a Rule, LAC 76:VII.367, which provides for an abandoned crab trap removal program. Authority to establish these regulations is vested in the commission by R.S. 56:332(N). Said Rule is attached and made a part of this Notice of Intent.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the Notice of Intent and final Rule, and the preparation of reports and correspondence to other agencies of government.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishery**

**§367. Removal of Abandoned Crab Traps**

A. The use of crab traps shall be prohibited from 6 a.m., February 23, 2008, through 6 a.m. March 3, 2008, within

that portion of Lafourche Parish and Terrebonne Parish as described below:

1. from a point originating along the western shoreline of Cut Off Canal at its intersection with Grand Bayou, thence southward along the western shoreline of Cut Off Canal to its intersection with the boundary of the Pointe-aux-Chenes Wildlife Management Area, thence west along the southern boundary of the Pointe-aux-Chenes Wildlife Management Area to the Humble Canal, thence west along the northern shoreline of Humble Canal to its intersection with Bayou Terrebonne, thence south along the western shoreline of Bayou Terrebonne to its intersection with Bush Canal, thence west along the northern shoreline of Bush Canal to its intersection with Bayou Little Caillou, thence south along the western shoreline of Bayou Little Caillou to 29 degrees 17 minutes 00 seconds north latitude, thence east along 29 degrees 17 minutes 00 seconds north latitude to the eastern shoreline of Bayou Pointe-aux-Chenes, thence north along the eastern shoreline of Bayou Pointe-aux-Chenes to the eastern shoreline of Cut Off Canal, thence north along the eastern shoreline of Cut Off Canal to its intersection with the southern shoreline of Grand Bayou, thence west across Cut Off Canal and terminating at the point of origin at the western shoreline of Cut Off Canal at its intersection with Grand Bayou.

B. All crab traps remaining in the closed area during the specified period shall be considered abandoned. These trap removal regulations do not provide authorization for access to private property; authorization to access private property can only be provided by individual landowners. Crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset. Anyone is authorized to remove these abandoned crab traps within the closed area. No person removing crab traps from the designated closed area shall possess these traps outside of the closed area. The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to designate disposal sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(N).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, and Wildlife and Fisheries Commission LR 30:101 (January 2004), amended LR 31:108 (January 2005), LR 32:266 (February 2006), LR 33:113 (January 2007), LR 33:

**Family Impact Statement**

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments relative to the proposed Rule to Vincent Guillory, Marine Fisheries Biologist Manager, Marine Fisheries Division, Box 189, Bourg, LA 70343, prior to Monday, November 5, 2007.

Earl P. King, Jr.  
Chairman

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

**RULE TITLE: Removal of Abandoned Crab Traps**

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

No increase or decrease in costs or savings to state or local governmental units associated with implementing the proposed rule is anticipated.

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

The proposed rule is expected to have no effect on revenue collections of state or local governmental units.

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

The proposed rule would prohibit the use of crab traps in a portion of Lafourche and Terrebonne parishes from 6:00 a.m. on February 23, 2008 through 6:00 a.m. on March 3, 2008. Crab fishermen who utilize the area proposed for closure will incur lost fishing time during the designated period and be subjected to additional costs from having to temporarily remove their traps. These impacted crab fishermen will have to either move their traps to adjacent open fishing areas or remove their traps for the duration of the closure.

Local seafood dealers, processors and consumers may experience a slight decrease in the availability of fresh crabs during the closure, resulting in a slightly higher price for fresh crabs in the short term. The crab resource, however, will not be

lost or harmed in any way and will be available for harvest when the closed area is reopened.

Recreational saltwater anglers, commercial fishermen and individuals who operate vessels within the designated area may realize slight positive benefits from the removal of abandoned crab traps, since encounters with abandoned traps often result in lost fishing time and damage to the vessel's lower unit and/or fishing gear. The removal of abandoned crab traps will reduce the mortality of and injuries to crabs and by-catch which become trapped and die in these traps. Thus, the removal of abandoned crab traps should provide improved fishing and reduced fishing costs.

The overall impact of the proposed area closure is anticipated to be slight, since the duration of the closure is only for ten days during the lowest harvest time of the year, and adjacent waters will be open for crab fishermen to continue to fish.

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

Effects on competition and employment are expected to be negligible, since adjacent waters will remain open for crab harvest and fishermen who fish during this time period are expected to relocate their traps.

Wynnette Kees  
Deputy Undersecretary  
0709#041

Robert E. Hosse  
Staff Director  
Legislative Fiscal Officer