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Executive Orders

EXECUTIVE ORDER KBB 07-09

Inmate Labor for Construction of Animal Shelter

WHEREAS, R.S. 15:832.1(A)(1) provides that the governor, upon determining that it is appropriate and in furtherance of the rehabilitation and training of inmates, may, by executive order, authorize the use of inmates of a penal or correctional facility owned by the state of Louisiana for necessary labor in connection with a particular capital construction project on the grounds of the facility;

WHEREAS, the Department of Public Safety and Corrections, Corrections Services, seeks to utilize inmate labor to assist in the construction of a permanent animal holding facility on the grounds of the B.B. "Sixty" Rayburn Correctional Center in Angie, Louisiana; and

WHEREAS, the Department of Public Safety and Corrections has advised that the estimated cost of construction is below the maximum specified in R.S. 15:832.1(A)(1).

NOW THEREFORE I, KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: In furtherance of the goals of the state of Louisiana of rehabilitating inmates, reducing recidivism, and reintegrating inmates into society, inmate labor is hereby authorized to build a permanent animal holding facility and an emergency animal shelter on the grounds of the B.B. "Sixty" Rayburn Correctional Center in Angie, Louisiana.

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 9th day of March, 2007.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0704#069

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Aerial Applications of 2, 4-D or Products Containing 2, 4-D (LAC 7:XXIII.143)

In accordance with the Administrative Procedure Act R.S. 49:950(B) and R.S. 3:3202(A), the Commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in amending the following Section for the implementation of regulations governing the use of the pesticide 2, 4-D and products containing 2, 4-D.

The applications of 2, 4-D in certain parishes, in accordance with the current regulations and labels, have not been sufficient to control drift onto non-target areas. Failure to prevent the drift onto non-target areas will adversely affect other crops particularly cotton. The adverse effects to the cotton crop and other non-target crops will cause irreparable harm to the economy of central Louisiana and to Louisiana Agricultural producers.

The department has, therefore, determined that this Emergency Rule implementing further restrictions on the application of 2, 4-D, and products containing 2, 4-D.

This Rule becomes effective on April 4, 2007 and will remain in effect 120 days.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

Subchapter I. Regulations Governing Application of Pesticides

§143. Restrictions on Application of Certain Pesticides

A. In addition to all other pesticides classified by EPA as restricted use pesticides, the pesticides listed in §143.B are classified as restricted use pesticides within the state of Louisiana, except:

1. when formulated in concentration of 2 percent or less; or
2. when formulated with fertilizer for use by homeowners; or
3. when formulated in containers of one quart or less or two pounds dry weight or less.

B. - O. ...

P. Regulations Governing Aerial Applications of 2, 4-D or Products Containing 2, 4-D

1. Registration Requirements

a. Prior to making any commercial aerial or ground application of 2, 4-D or products containing 2, 4-D, as described in LAC 7:XXIII.143.P.3.a.i, the owner/operator must first register such intent by notifying the Louisiana Department of Agriculture and Forestry, Division of Pesticides and Environmental Programs ("DPEP") in writing.

b. All permits and written authorizations of applications of 2, 4-D or products containing 2, 4-D in the areas listed in LAC 7:XXIII.143.P.3.a.i., shall be a part of the record keeping requirements, and be in the possession of the owner/operator prior to application.

2. Grower Liability. Growers of crops shall not force or coerce applicators to apply 2, 4-D or products containing 2, 4-D to their crops when the applicators, conforming to the Louisiana Pesticide Law and rules and regulations promulgated there under or to the pesticide label, deem it unsafe to make such applications. Growers found to be in violation of this section may be subject to a stop order, subject to an appeal to the Advisory Commission on Pesticides.

3. 2, 4-D or products containing 2, 4-D;

a. Application Restriction

i. Aerial application of 2, 4-D or products containing 2, 4-D is limited to only permitted applications annually between April 3 and May 1 in the following parishes: Allen (East of U.S. Highway 165 and North of U.S. Highway 190), Avoyelles (West of LA Highway 1), Evangeline, Pointe Coupee (West of LA Highway 1 and North of U.S. Highway 190), Rapides, and St. Landry (North of U.S. Highway 190).

ii. Applications of 2, 4-D, or products containing 2, 4-D, shall not be made in any manner by any commercial or private applicators between May 1 and August 1 in the areas listed in LAC 7:XXIII.143.P.3.a.i., except commercial applications of 2, 4-D or products containing 2, 4-D is limited to only permitted applications annually between May 1 and August 1 in the area south of LA Highway 104 and LA Highway 26 and north of U.S. Highway 190 between U.S. Highway 165 and LA. Highway 13 in the parishes of Allen and Evangeline, and except upon written application to and the specific written authorization by the Assistant Commissioner of the Office of Agricultural and Environmental Sciences, or in his absence the Commissioner of Agriculture and Forestry.

4. Procedures for Permitting Applications of 2, 4-D or products containing 2, 4-D.

a. Prior to any application of 2, 4-D, or products containing 2, 4-D, a permit shall be obtained in writing from DPEP. Such permits may contain limited conditions of applications and shall be good for five days from the date issued. Growers or commercial ground or aerial applicators shall obtain permits from DPEP. Commercial ground and aerial applicators shall fax daily to DPEP all permitted or written authorized applications of 2, 4-D or products containing 2, 4-D. The faxed information shall include but not be limited to the following:

- i. wind speed and direction at time of application;
- ii. temperature at time of application;
- iii. field location and quantity of acreage;
- iv. time of application;
- v. grower name, address and phone number;
- vi. owner/operator firm name, address and phone number;

- vii. applicator name, address, phone number and certification number;
 - viii. product name and EPA registration number;
 - ix. any other relevant information.
- b. The determination as to whether a permit for application is to be given shall be based on criteria including but not limited to:
- i. weather patterns and predictions;
 - ii. wind speed and direction;
 - iii. propensity for drift;
 - iv. distance to susceptible crops;
 - v. quantity of acreage to be treated;
 - vi. extent and presence of vegetation in the buffer zone;
 - vii. any other relevant data.

5. Monitoring of 2, 4-D or Products Containing 2, 4-D

a. Growers or owner/operators shall apply to the DPEP, on forms prescribed by the Commissioner, all requests for aerial applications of 2, 4-D or products containing 2, 4-D.

b. All owner/operators and private applicators shall maintain a record of 2, 4-D or products containing 2, 4-D applications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:189 (April 1983), amended LR 10:196 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:1119 (September 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001), LR 27:1672 (October 2001), LR 33:

Bob Odom
Commissioner

0704#012

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Seed Commission

Temporary Suspension of Germination Standards (LAC 7:XIII.185)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 3:1433, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached rules and regulations governing the sale of rice seed that do not meet current germination standards.

The United States Department of Agriculture (USDA) has banned the planting and distribution of Cheniere rice and the 2005, 2006, and 2007 registered and certified classes of Clearfield 131 rice variety. Further, farmers who planted Clearfield 131 rice last year must replant a Clearfield rice variety this year, also. While there are other Clearfield varieties of rice seed available portions of those varieties do not meet the current germination percentages established by the Louisiana Seed Commission.

The banning of the planting and distribution of these varieties of rice has created a severe shortage of rice seed that meets current germination percentage established by the Louisiana Seed Commission. The forecast is that the loss of these two varieties creates a shortage of seed rice sufficient to force farmers to forego planting approximately 100,000 acres of rice in Louisiana. Even allowing the sale of rice seed with sub-standard germination may not provide enough rice seed for the 2007 planting season.

The rice industry in Louisiana contributes over \$250,000,000 to Louisiana's economy through the sale of rice. Without a temporary suspension of current germination standards a substantial portion of that contribution will be lost. Some producers will be forced out of business, thereby causing permanent economic loss to Louisiana's rice industry and loss of income to the citizens of Louisiana and businesses that depend on the rice industry.

The ban on the planting and distribution of the Cheniere and Clearfield 131 rice varieties creates an imminent peril to the welfare of the citizens of Louisiana and to Louisiana's economy. The Seed Commission has determined that a temporary suspension of the current germination percentages and reduction of the germination percentage for all rice seed to 50 percent is necessary to help alleviate, to the extent possible, the shortage of rice seed available for planting for the 2007 crop year.

This Rule becomes effective upon signature, March 15, 2007.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 1. Louisiana Seed Law

Subchapter C. Certification of Specific Crops/Varieties

§185. Rice Seed Certification Standards

A. - B. ...

C. Temporary Suspension of Germination Standards

1. Notwithstanding any other provision of this Chapter to the contrary, the germination percentage for rice seed offered for sale, whether foundation, registered, certified, or noncertified shall be 50 percent or above.

2. The label of noncertified rice seed with a germination percentage below 60 percent and certified rice seed with a germination percentage below 80 percent shall show the seed to be substandard, in addition to any other labeling requirements established by law or regulation.

3. In addition to the label showing the seed to be substandard, a red decal shall be placed as close to the label as possible. The red decal shall be at least three inches by three inches in size and shall contain in prominent and readable letters the statement:

"SUBSTANDARD GERMINATION"

"INCREASED PLANTING RATE REQUIRED."

4. The provisions of this subsection shall expire on August 31, 2007.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:576 (November 1982), amended LR 9:201 (April 1983), LR 9:754 (November 1983), LR 10:495 (July 1984), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 13:157 (March 1987), LR 13:233 (April 1987), LR 14:606 (September 1988), LR

Bob Odom
Commissioner

0704#001

DECLARATION OF EMERGENCY

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

Expedited Penalty Agreement
(LAC 33:I.807, VII.115 and 315)(MM004E)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allow the Department of Environmental Quality to use emergency procedures to establish rules, and of R.S. 30:2011, which allows the department to establish standards, guidelines, and criteria, to promulgate rules and regulations, and to issue compliance schedules, the secretary of the department hereby declares that an emergency action is necessary in order to implement expedited penalty agreements.

The Expedited Penalty Agreement Rule, OS054, became final on December 20, 2006. This Emergency Rule, MM004E, supplements that Rule by adding certain additional violations of the solid waste regulations to LAC 33:I.807, and amends LAC 33:VII.115 and 315 accordingly. The Emergency Rule will abate delays that have occurred in correcting violations of the Environmental Quality Act concerning the unauthorized transporting, disposal, and/or burning of solid wastes. Delays in enforcement reduce the effectiveness of the enforcement action and unnecessarily utilize resources. In the recent past, complaints of unauthorized disposal and burning of solid wastes have increased considerably, especially in the hurricane-impacted areas. This Emergency Rule will provide an alternative penalty assessment mechanism that the department may utilize, at its discretion, to expedite penalty agreements in appropriate cases, reducing staff time and increasing efficiency in addressing such violations. The report to the Governor by the Advisory Task Force on Funding and Efficiency of the Louisiana Department of Environmental Quality has approved an expedited penalty approach. It recommended a pilot program for addressing certain classes of violations with penalties in a timelier manner. The legislature approved that report and passed Act 1196 in the 2003 Regular Session allowing the department to promulgate rules for the program. A pilot program was created and monitored for approximately two years. Positive feedback on the program led the department to promulgate the permanent expedited penalty agreement Rule that became final on December 20, 2006.

This Emergency Rule is effective on March 20, 2007, and shall remain in effect for a maximum of 120 days or until a final Rule is promulgated, whichever occurs first. For more information concerning MM004E you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx, and 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.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 8. Expedited Penalty Agreement

§807. Types of Violations and Expedited Penalty Amounts

A. The types of violations listed in the following table may qualify for coverage under this Chapter; however, any violation listed below, which is identified in an expedited penalty agreement, must also meet the conditions set forth in LAC 33:I.805.E.

Expedited Penalties			
Violation	Citation	Amount	Frequency
All Media			
*** [See Prior Text]			
Solid Waste			
Unauthorized on-site disposal of solid waste by the owner, lessee, or other person having an actual right, title, or interest in the property.	LAC 33:VII.315. A and E	\$250	Per occurrence
Unauthorized disposal of solid waste by the generator at an off-site location not permitted to receive such waste.	LAC 33:VII.315. A and E	\$250	Per occurrence
Operation of an unauthorized disposal site where solid waste is disposed.	LAC 33:VII.315. A and E	\$1000	Per occurrence
An owner, lessee, or other person having an actual right, title, or interest in the property of an unauthorized disposal site in which solid waste is disposed.	LAC 33:VII.315. A and E	\$1000	Per occurrence
Failure to report any discharge, deposit, injection, spill, dumping, leaking, or placing of solid waste into or on the water, air, or land.	LAC 33:VII.315.K	\$500	Per occurrence
Open burning of solid waste as prohibited by regulation.	LAC 33:VII.315.Q	\$250	Per occurrence
Offering residential solid waste to an unauthorized transporter and/or facility not permitted to receive such waste.	LAC 33:VII.315.S	\$250	Per occurrence
Offering commercial solid waste and/or construction and demolition debris to an unauthorized transporter and/or a facility not permitted to receive such waste.	LAC 33:VII.315.S	\$500	Per occurrence
Offering industrial solid waste to an unauthorized transporter and/or a facility not permitted to receive such waste.	LAC 33:VII.315.S	\$750	Per occurrence
Transportation of solid waste to processing or disposal facilities not permitted to receive such waste.	LAC 33:VII.705.D	\$1,000	Per occurrence

Expedited Penalties			
Violation	Citation	Amount	Frequency
Waste Tires			

[See Prior Text]			

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:2243 (December 2006), amended LR 33:

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 1. General Provisions and Definitions

§115. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

Transport—to move solid waste off-site to a non-processing transfer station or collection, processing, or disposal facility.

Transporter—any person who moves solid waste off-site to a non-processing transfer station or collection, processing, or disposal facility, excluding individuals who transport their own residential waste to a collection facility, transfer station, or permitted solid waste landfill.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514, 2609 (November 2000), amended by the Office of Environmental Assessment, LR 31:1576 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

Chapter 3. Scope and Mandatory Provisions of the Program

§315. Mandatory Provisions

A. - R.2. ...

S. Generators shall not offer solid waste to transporters, processing facilities, or disposal facilities that have not received authorization and/or the required permits necessary to receive and/or manage the generator's solid waste.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1315 (October 1993), repromulgated LR 19:1421 (November 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997), LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), LR 30:1675 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2487 (October 2005), LR 33:

Mike D. McDaniel, Ph.D.
Secretary

0704#004

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies
Non-Rural Community Hospitals and Federally Mandated
Statutory Hospitals (LAC 50:V.307-309)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated an Emergency Rule to repeal and replace all Rules governing disproportionate share hospital payment methodologies (*Louisiana Register*, Volume 31, Number 6). In compliance with Act 182 and Act 323 of the 2005 Regular Session, the June 20, 2005 Emergency Rule was amended to establish provisions for provider fees levied on hospitals as a result of the Healthcare Affordability Act (*Louisiana Register*, Volume 31, Number 7) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 31, Number 9). The June 20, 2005 Rule was subsequently amended to incorporate the provisions of the July 1, 2005 and September 1, 2005 Emergency Rules (*Louisiana Register*, Volume 31, Number 10).

The October 25, 2005 Emergency Rule was amended to: 1) change the provisions governing DSH payments to other uninsured hospitals; 2) establish provisions governing payments to private community hospitals for services rendered to displaced, uninsured citizens from mandatory evacuation parishes affected by Hurricanes Katrina and Rita; 3) change the provisions governing DSH payments to high uninsured hospitals and to establish provisions governing payments to public community hospitals (*Louisiana Register*, Volume 32, Number 7); and 4) revise the provisions governing disproportionate share hospital payments to non-rural community hospitals as a result of the allocation of additional funds by the Legislature during the 2006 Regular Session (*Louisiana Register*, Volume 32, Number 9). The department subsequently amended the October 25, 2005 Emergency Rule to incorporate the provisions of the June 28, 2006 and September 15, 2006 Emergency Rules (*Louisiana Register*, Volume 32, Number 10). The October 23, 2006 Emergency Rule was amended to revise the definition of a small rural hospital (*Louisiana Register*, Volume 33, Number 1) and to incorporate the provisions of the December 18, 2006 Emergency Rule (*Louisiana Register*, Volume 33 Number 2). The department promulgated an Emergency Rule to amend the February 21, 2007 Emergency Rule that repealed the provisions governing private community hospitals and revised the provisions governing non-rural community hospitals and federally mandated statutory hospitals to clarify that

hospitals qualifying as a non-rural community hospital in state fiscal year 2006-2007 may also qualify in the federally mandated statutory hospital category (*Louisiana Register*, Volume 33, Number 3). In compliance with Act 17 of the 2006 Regular Session which appropriated funds for non-rural community hospitals which meet the federal DSH requirements and do not qualify for payments for uninsured costs, the bureau now proposes to amend the March 1, 2007 Emergency Rule to rescind the provisions which allowed hospitals to qualify for DSH payments as both non-rural community hospitals and in the federally mandated statutory hospital category.

This action is being taken to avoid sanctions. It is estimated that implementation of this proposed Emergency Rule will have no fiscal impact for state fiscal year 2006-2007.

Effective April 1, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the March 1, 2007 Emergency Rule governing disproportionate share hospital payment methodologies.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 3. Disproportionate Share Hospital Payment Methodologies

§307. Non-Rural Community Hospitals

A. Definitions

Non-Rural Community Hospital—a non-state hospital that does not receive disproportionate share payments under any other qualification category. These hospitals may be either publicly or privately owned. In addition, psychiatric, rehabilitation and long term hospitals may qualify for this category.

B. DSH payments to a public, non-rural community hospital shall be calculated as follows.

1. Each qualifying public, non-rural community hospital shall certify to the Department of Health and Hospitals its uncompensated care costs. The basis of the certification shall be 100 percent of the hospital's allowable costs for these services, as determined by the most recently filed Medicare/Medicaid cost report. The certification shall be submitted in a form satisfactory to the department no later than October 1st of each fiscal year. The department will claim the federal share for these certified public expenditures. The department's subsequent reimbursement to the hospital shall be in accordance with the qualifying criteria and payment methodology for non-rural community hospitals included in Act 17 and may be more or less than the federal share so claimed. Qualifying public, non-rural community hospitals that fail to make such certifications by October 1st may not receive Title XIX claim payments or any disproportionate share payments until the department receives the required certifications.

C. DSH payments to private, non-rural community hospitals located in Orleans, Jefferson, Calcasieu and Cameron Parishes shall be calculated as follows.

1. If the hospital's qualifying uninsured cost is less than 3.5 percent of total hospital cost, the payment shall be 30 percent of qualifying uninsured costs.

2. If the hospital's qualifying uninsured cost is equal to or greater than 3.5 percent of the total hospital cost but less than 6.5 percent of total hospital cost, the payment shall be 50 percent of qualifying uninsured cost.

3. If the hospital's qualifying uninsured cost is equal to or greater than 6.5 percent of total hospital cost but less than or equal to 8 percent of total hospital cost, the payment shall be 80 percent of qualifying uninsured cost.

4. If the hospital's qualifying uninsured cost is greater than 8 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in excess of 8 percent of total hospital cost and 80 percent of qualifying uninsured cost for the portion equal to 8 percent of total hospital cost.

D. DSH payments to private, non-rural community hospitals located in all other parishes shall be calculated as follows.

1. If the hospital's qualifying uninsured cost is less than 3.5 percent of total hospital cost, no payment shall be made.

2. If the hospital's qualifying uninsured cost is equal to or greater than 3.5 percent of total hospital cost but less than 6.5 percent of total hospital cost, the payment shall be 50 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost.

3. If the hospital's qualifying uninsured cost is equal to or greater than 6.5 percent of total hospital cost but less than or equal to 8 percent of total hospital cost, the payment shall be 80 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost.

4. If the hospital's qualifying uninsured cost is greater than 8 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in excess of 8 percent of total hospital cost and 80 percent of an amount equal to 4.5 percent of total hospital cost.

E. The department shall determine each qualifying hospital's uninsured percentage on a hospital-wide basis utilizing charges for dates of service from February 1, 2006 through July 31, 2006.

F. Hospitals shall submit supporting patient specific data in a format specified by the department. The deadline for submission of data used to determine qualification and the initial payment is January 12, 2007. The second payment to hospitals will be based on patient specific data for dates of service from August 1, 2006 through January 31, 2007. The deadline for submission of data used to calculate final payment is by April 16, 2007. Qualification for both payments is determined from the patient specific data for dates of services from February 1, 2006 through July 31, 2006.

1. For those hospitals that were non-operational due to Hurricane Katrina but became operational between July 1, 2006 and December 31, 2006, the patient specific data during July 1, 2006 through December 31, 2006 will be used for qualification purposes.

2. Submitted hospital charge data must agree with the hospital's monthly revenue and usage reports which reconcile to the monthly and annual financial statements.

The submitted data shall be subject to verification by the department before DSH payments are made.

G. In the event that the total payments calculated for all recipient hospitals are anticipated to exceed the total amount appropriated, the department shall reduce payments on a pro rata basis in order to achieve a total cost that is not in excess of the amounts appropriated for this purpose. The \$120,000,000 appropriation for the non-rural community hospital pool shall be effective only for state fiscal year 2007 and distributions from the pool shall be considered nonrecurring.

H. DSH payments shall be made as bi-annual lump sum payments.

I. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

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

§308. Non-Rural Community Hospitals—SFY 2007

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

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

§309. Federally Mandated Statutory Hospitals

A. - D.2. ...

E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

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

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips at Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

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

0704#006

DECLARATION OF EMERGENCY

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

Medicaid Eligibility—Disability Medicaid Program
(LAC 50:III.2501)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:III.2501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of

the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Section 1902(a)(10) of Title XIX of the Social Security Act and Section 435.210 of Title 42 of the Code of Federal Regulations (CFR) provides states with the option to cover individuals under their Medicaid State Plan who are aged, blind or have a disability, and who meet the income and resource requirements for Supplemental Security Income (SSI) cash assistance. These individuals are not currently included as an eligibility category under Louisiana's Medicaid State Plan and must be referred to the Social Security Administration for assistance. Their Medicaid eligibility is contingent upon a favorable decision for SSI cash assistance. Pursuant to Section 1902(a)(10) of Title XIX of the Social Security Act and 42 CFR 435.210, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt provisions to include this optional coverage group under the Medicaid State Plan and provide Medicaid-only services in the Disability Medicaid Program.

This action is being taken to avoid imminent peril to the health and safety of certain individuals who would have to wait for a Social Security Administration decision to receive Medicaid benefits in order to obtain necessary medical care. It is estimated that the implementation of this Emergency Rule will be \$1,387,635 for state fiscal year 2006-2007.

Effective April 20, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts provisions to provide Medicaid-only coverage to aged, blind and disabled individuals through the Disability Medicaid Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 25. Eligibility Groups and Medicaid Programs

§2501. Disability Medicaid Program

A. The Disability Medicaid Program provides Medicaid-only coverage to aged, blind and disabled individuals who meet income and resource requirements for Supplemental Security Income (SSI) cash assistance.

B. Individuals receiving services in the Disability Medicaid Program will be included as an optional coverage group under the Medicaid State Plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

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

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Department of Health and Hospitals, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to

inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

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

0704#052

DECLARATION OF EMERGENCY

Department of Social Services Office of Community Services

Allocation of Hurricane Relief Funds
SSBG Supplemental Appropriation
(LAC 67:V.717)

The Department of Social Services, Office of Community Services (DSS/OCS), has exercised the emergency provision of the Administrative Procedures Act, R.S. 49:953(B) to adopt LAC 67:V.Section 717, Allocation of Hurricane Relief Funds Supplemental Appropriation. This Emergency Rule, effective March 23, 2007, shall remain in effect for 120 days.

Under the Department of Defense Appropriations Act (H.R. 2863), \$220,901,534 has been allocated to Louisiana in a supplemental appropriation to SSBG funds for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005. In addition to other uses permitted by Title XX of the Social Security Act, funds appropriated under this heading may be used for health services, including mental health services, and for repair, renovation and construction of health facilities, including mental health facilities. It recognizes that the hurricanes in the Gulf of Mexico in calendar year 2005 have imposed extreme demands for social and health care services in affected states. States may use SSBG funds for a wide array of human services. The Administration for Children and Families, (ACF) approved a waiver of the provisions under Section 2005(a) of the Social Security Act on June 2, 2006 to allow the use of SSBG Supplemental funds for the rebuilding and construction of childcare facilities in Louisiana.

The DSS/OCS proposes to enter into contracts, memoranda of understanding, or other agreements with the entities listed in this Rule including but not limited to such services as health services, including mental health services, for repair, renovation, and construction of facilities, including Class A child care facilities and mental health facilities, intensive benefits, and case management for the citizens of this state effected by the hurricanes.

Emergency action is necessary due to imminent peril to public health as the hurricanes in the Gulf of Mexico in calendar year 2005 have imposed extreme demands for social and health care services. SSBG funds may be used for a wide array of human services and the supplemental appropriation must be expended by September 30, 2007.

Two public hearings were held in accordance with SSBG rules and no comments were received.

Title 67

SOCIAL SERVICES

Part V. Community Services

Chapter 7. Social Services Block Grant

§717. Allocation of Hurricane Relief Funds SSBG Supplemental Appropriation

A. Purpose, Need, and Eligibility

1. Under the Department of Defense Appropriations Act (H.R. 2863), \$220,901,534 has been allocated to Louisiana in a supplemental appropriation to SSBG funds for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005. In addition to other uses permitted by Title XX of the Social Security Act, funds appropriated under this heading may be used for health services, including mental health services, and for repair, renovation and construction of facilities, including mental health facilities. The ACF approved a waiver of the provisions under Section 2005(a) of the Social Security Act on June 2, 2006 to allow the use of SSBG supplemental funds for the rebuilding and construction of childcare facilities in Louisiana. The OCS proposes to enter into contracts, memoranda of understanding, or other agreements with the entities listed in this rule including but not limited to such services as health services, including mental health services, for repair, renovation, and construction of facilities, including Class A child care facilities and mental health facilities, intensive benefits, and case management for the citizens of this state effected by the hurricanes. This rule is effective for the SSBG Allotment of Federal Fiscal Year 2006.

2. It recognizes that the hurricanes in the Gulf of Mexico in calendar year 2005 have imposed extreme demands for social and health care services in affected States. States may use SSBG funds for a wide array of human services.

3. Because of the nature of the natural disaster, many affected individuals and families will not have in their possession customary documentation of their economic status to substantiate eligibility for SSBG-supported services. Also, many individuals or families who may not have been eligible for assistance prior to the hurricanes may be, because of the devastation, eligible now. Therefore, "presumptive eligibility" determinations may be made based on applicant residence in known areas of devastation at the time of Hurricanes Katrina and Rita or post-hurricane experience of affected individuals or families. Each entity that receives the SSBG funding can have additional or different eligibility requirements.

4. The following areas to be addressed include:

a. the health care needs of people affected by the hurricanes in the Gulf of Mexico in calendar year 2005 and who lack health insurance or other adequate access to care and to help health care create a "safety net." This would include intended uses of these funds in areas of mental health service provision and provision for substance and addictive disorder interventions and services;

b. expanding services to meet the needs of families in the child welfare system in the areas of foster care, adoption, prevention, intervention, and protective services in child welfare;

c. institutions serving these populations in order to build community health centers, rural hospitals and clinics, community mental health centers, public hospitals, and other providers with substantial percentages of uninsured patients. Funds may be made available for repairs and reconstruction needed to allow health centers and similar providers to resume or expand operations, or to help key providers meet salary and other costs associated with resuming or restoring health services;

d. providing social service delivery and case management services to families in order to assist with identification of housing needs, development of individualized recovery plans and referral of families to available disaster relief services, provide for case management and follow-up with families, and to provide for direct emergency assistance in human services;

e. restoring critical child care services will support families as they return to work in hurricane affected parishes. Child care supports are vital to reestablishing a workforce and strengthening our state's economy. Child care is a critical need to promote independence and safety of families and children. Restoring the child care infrastructure is a current need in Louisiana. Funds will be available to rebuild the child care infrastructure by repairing and/or building Class A child care centers and providing training and technical assistance necessary in attracting and retaining a child care workforce.

B. Department of Social Services

1. Child Welfare Services—Foster Care, Adoption, Prevention, Intervention and Protective Services

a. Services will include anger management, parenting skills, counseling, etc. Visitation expenses include travel for the foster child and foster parent/caretaker from their displaced location to the birthparent's location, lodging, and meals during the travel. This includes travel both within and outside of Louisiana. It is estimated that 2/3 of impacted children lost at least a significant portion or all of their personal belongings that have yet to be replaced. These were possessions lost or damaged during the time during and after Hurricanes Katrina and Rita. These funds will be used in this arena. These funds will be used to provide for the youth effected by Hurricanes Katrina and Rita in OCS independence programs. These are programs used to assist children aging out of foster care and who have greater needs for transitional assistance than is typically provided, especially in the aftermath of the upheaval and displacement brought on by the storms of 2005. These funds will be used for foster care reunification services, as additional demands for such services are felt as a result and impact on the child welfare system of services due to H Katrina and H Rita. After most disasters, there is an evidenced increase in abuse and/or neglect as well as disruptions in foster care. Such funds will be used to obtain trauma-related services to help stabilize placements and prevent disruptions by providing increased service access for family services, respite care, counseling, parenting classes, etc.

2. Child Care Services

a. Louisiana must rebuild the child care infrastructure in the hurricane affected parishes to assist families in returning to work while ensuring their children receive quality child care. To meet the critical need for child care in Louisiana, DSS/OFS will implement a child care

support system to rebuild the child care sector. This will be done by three initiatives.

i. Training and Technical Assistance for Child Care Providers. The objective of this program is to provide intensive training and technical assistance for current and prospective child care providers to increase the supply of child care businesses opening and reopening in the hurricane affected areas. Training and technical assistance will also be provided to current and prospective child care providers and other professionals engaged in the system. The services will be available in Calcasieu, Cameron, Orleans, Jefferson, Plaquemines, St. Bernard, St. Tammany and Washington parishes.

ii. Furnishing Child Care Centers Program. This component will offer a program for equipping, furnishing, and supplying Class A child care centers whose licenses were suspended due to hurricane-related damage and have reopened, Class A centers in the process of opening or reopening, or Class A centers being constructed. An assessment of each center will be conducted and a priority for equipping Class A child care centers will be established. Furnishings, equipment and supplies include but are not limited to curriculum, books, furniture, appliances, office equipment, developmentally and age appropriate play equipment for both indoor and outdoor space and other items appropriate to the operation of a Class A licensed day care center.

(a.) Eligibility will be limited to the Class A child care centers that are currently participating in the Child Care Assistance Program (CCAP) funding; those reopening, that participated in the CCAP within a year prior to August 2005; or for those new Class A child care centers that have opened since August 29, 2005, and are committing to serve CCAP eligible children within 60 days of opening for business.

(b.) The program will be offered in Calcasieu, Cameron, Orleans, Jefferson, Plaquemines, St. Bernard, St. Tammany and Washington parishes.

(c.) Eligible expenses dated October 1, 2005 or after will be reimbursable. Eligible reimbursable expenses are those not covered by other reimbursements, such as insurance and other state or federal funds.

(d.) Class A child care centers participating in this program must agree to accept all requirements as defined by SSBG and the state, including federal and state interest.

iii. Child Care Facilities Restoration Fund. This program will provide funds for repair and/or construction of Class A child care centers in the hurricane devastated parishes of Calcasieu, Cameron, Orleans, Jefferson, Plaquemines, St. Bernard, St. Tammany and Washington. The state must apply its appropriate administrative standards when issuing sub awards to guarantee the protection and disposition of real estate rebuilt, constructed or purchased with grant funds and the state is also required to file a Notice of Federal Interest document to officially recognize the federal government's continuing financial interest in the property. The minimum eligibility criteria for the child care facilities will include the following:

(a.) previously held Class A license or agree to become a Class A licensed facility and agree to maintain a Class A license;

(b.) for Class A centers that previously held a Class A license, have served children subsidized with CCAP funds within 12 months prior to August 2005 and commit to doing so moving forward, and provide assurance that SSBG funding along with any other identified funding will allow the center to reopen and serve children;

(c.) for an entity wishing to open a new Class A child care center, must declare intention to serve children subsidized with CCAP funding and provide assurance that SSBG funding along with any other identified funding will allow the center to reopen and serve children;

(d.) must provide evidence of current demand for services;

(e.) must provide evidence of capacity to provide quality child care services;

(f.) must agree to accept all requirements as defined by SSBG and the state including federal and state interest;

(g.) eligible expenses dated October 1, 2005 or after will be reimbursable. Eligible reimbursable expenses are those not covered by other reimbursements, such as insurance and other state or federal funds.

C. Department of Health and Hospitals

1. Behavioral Health Services

a. Funds shall be used to restore and expand mental health services, substance abuse treatment and prevention services and developmental disability services as follows:

i. Immediate Intervention—Crisis Response System;

ii. Substance Abuse Treatment and Prevention;

iii. Behavioral Health Services for Children and Adolescents;

iv. Preventing or Reducing Inappropriate Institutional Care;

v. Behavioral Health Program Restoration and Resumption;

vi. Health care work force; and

vii. Operational tools

2. Preventive and Primary Care

a. Funds shall be used to issue grant awards to parishes as bridge funding to restore and develop comprehensive and integrated primary, preventive and behavioral health care services, with an emphasis on restoring safety net services for the uninsured and underinsured.

D. Louisiana State University Health Sciences Center (LSU-HSC)

1. Funds allocated to LSU-HSC would be used as follows.

a. Keep the healthcare workforce intact by retaining faculty and residents.

b. Set up primary care clinics across the city with funding for salaries for dentists, physicians, nurses and allied health personnel.

c. Expand capabilities to address psychiatric needs in New Orleans and surrounding areas.

d. Support the General Dentistry Residency, Oral and Maxillofacial Surgery Residency, and Oral Medicine programs that provide preventive and primary care to the uninsured at multiple sites in the state.

e. Prepare an adequate number of allied health professionals who can function in primary, secondary, and

tertiary care through the School of Allied Health Professions. The LSU-HSC in New Orleans is a primary source of graduate level practitioners in the areas of Physical Therapy, Occupational Therapy, Speech and Language Pathology, Audiology, Medical Technology, Cardiopulmonary Technology, and Rehabilitation Counseling for New Orleans and the state of Louisiana.

f. Resume Early Intervention Institute and the Human Development Center direct service, consultative, and advocacy programs for individuals with disabilities. Reestablishing these services will ensure maintenance of high-quality health care educational experiences for individuals who work with these citizens who represent a portion of our population that is typically uninsured, underserved, and at the greatest risk for developing physical and mental problems.

E. LSU Health Care Services Division (HCSO)

1. Funding to the HCSO in the current fiscal year will enable the Division to continue providing the following services:

a. the enhancement of primary care services at the regional hospitals to accommodate the population shifts which have occurred;

b. the patient pharmaceutical procurement program which matches needy patients with low cost medications that is essential to proper management of such conditions as diabetes, hypertension, asthma, HIV and asthma which have the effect of preventing further and/or rapid development of the disease;

c. provide needed financing for eight neighborhood health units currently under development for placement in New Orleans;

d. continued funding of the EMED currently at the New Orleans Convention Center;

e. funding for the Level I Trauma Service operational costs anticipated at the Elmwood Hospital location;

f. provide the HCSO hospitals with the ability to continue its current level of support for Mental and Behavioral Health Programs.

F. Louisiana Family Recovery Corps

1. The DSS/OCS will contract with the Louisiana Family Recovery Corps (LFRC) to provide SSBG approved services to individuals and families displaced by H Katrina and H Rita through programs developed by LFRC. The LFRC, an independent non-profit organization, was created to mobilize and coordinate humanitarian services to displaced Louisiana families in the wake of these disasters.

2. Eligibility for SSBG approved services is limited to individuals and families who were displaced as a result of Hurricanes Katrina or Rita. LFRC, in coordination with the department, is authorized to develop programs with more restrictive eligibility requirements than those provided above, including but not limited to financial eligibility, pre-storm residence, current or prospective residence, age, and disability.

3. Eligible services are those directed at the goals of:

a. achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

b. achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

c. preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

d. preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; and

e. securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

4. LFRC, in coordination with the department, is authorized to develop programs that provide services that are necessary to address the consequences of the hurricanes for the eligible population and are directed at the goals of SSBG.

G. Tulane University Health Sciences Center

1. Tulane University will help sustain the health care safety net in New Orleans, as well as assist in responding to the new health care crisis in this community. These funds may be utilized in the following areas:

a. sustain, and when needed, enhance capacity to provide primary care, emergency care, public health preparedness and training, adult and child psychiatry, women's health, children's health, health equality, environmental health, infectious diseases to the under and uninsured;

b. maintain a high-quality biomedical workforce in the greater New Orleans region through retention of existing healthcare faculty and residents;

c. support for the School of Public Health and Tropical Medicine;

d. retention and establishment of primary care clinics;

e. support for Cancer Center and Gene Therapy Center;

f. support for Clinical Research and supporting faculty and staff.

AUTHORITY NOTE: Promulgated in accordance with Title XX of the Social Security Act and Department of Defense Appropriations Act (H.R. 2863).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 33:

Ann Silverberg Williamson
Secretary

0704#005

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

2006-2007 Oyster Season Closure

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and R.S. 49:967(D), and under the authority of R.S. 56:433(B)1 which provides that the Wildlife and Fisheries Commission may designate what parts or portions of the natural reefs may be fished for oysters and it may suspend the fishing of oysters altogether from natural reefs not leased by it when such reefs are threatened with depletion as determined by the department, and a Resolution adopted by the Wildlife and

Fisheries Commission on August 3, 2006 which authorized the Secretary of the Department of Wildlife and Fisheries to take emergency action if necessary to close areas based on adverse impacts to oyster reefs, the presence of a significant spat catch, and/or if enforcement problems are occurring, the secretary hereby declares:

The 2006/2007 oyster season shall close as follows.

1. The Primary Public Oyster Seed Grounds east of the Mississippi River as described in Louisiana Administrative Code (LAC) 76:VII.511, the Bay Gardene Public Oyster Seed Reservation as described in R.S. 56:433(E), the Lake Borgne Public Oyster Seed Grounds as described in LAC 76:VII.513, the Hackberry Bay Public Oyster Seed Reservation as described in R.S. 56:433(E), the Little Lake Public Oyster Seed Grounds as described in the Louisiana Administrative Code (LAC) 76:VII.521 and the Vermilion/East and West Cote Blanche/Atchafalaya Bay Seed Grounds as described in LAC 76:VII.507 and 509 shall close on Sunday, April 1, 2007 at one-half hour after sunset.

2. The Calcasieu Lake Public Oyster Area as described in R.S. 56:435.1.1 shall close on Monday, April 30, 2007 at one-half hour after sunset.

Fishing effort has reduced market-size oyster stocks in these areas and adversely impacted oyster reefs. In addition, a large number of enforcement citations have been issued for oyster-related infractions, most notably for the harvest of undersized oysters for market purposes. Biologists have also noted young oyster spat in recent biological samples from some of these areas. These closures are being enacted to protect the remaining oyster resources.

Bryant O. Hammett, Jr.
Secretary

0704#011

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

2007 Red Snapper Recreational Season

The red snapper fishery in the Gulf of Mexico is cooperatively managed by the Department of Wildlife and Fisheries (LDWF), the Wildlife and Fisheries Commission (LWFC) and the National Marine Fisheries Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S., which in Louisiana is generally three miles offshore. Rules were established by NMFS to close recreational harvest season in the EEZ off of Louisiana effective midnight October 31, 2006 until 12:01 a.m., April 21, 2007 by reducing the bag limit to zero, and NMFS requested that consistent regulations be established in Louisiana waters. NMFS typically requests consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

In order to enact regulations in a timely manner so as to have compatible regulations in place in Louisiana waters for the 2007 red snapper season, it is necessary an Emergency Rule be enacted.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, size limits, and all rules and regulations pursuant thereto, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons and daily take limits based upon biological and technical data for saltwater finfish, the Wildlife and Fisheries Commission hereby sets the following seasons for harvest of red snapper in Louisiana state waters.

The season for the recreational harvest of red snapper in Louisiana state waters will remain closed until 12:01 a.m., April 21, 2007 by reducing the bag limit to zero for that time period. The season will open at 12:01 a.m., April 21, 2007. The daily take and possession limit shall be 4 red snapper per person until 12:01 a.m., May 2, 2007. At that time, the daily take and possession limit shall be reduced to two red snapper per person. Also effective at 12:01 a.m., May 2, 2007, no red snapper may be retained by the captain or crew of a vessel operating as a charter vessel or headboat. Their bag limit is reduced to zero.

The season for the recreational harvest of red snapper in Louisiana state waters shall close at midnight October 31, 2007; provided however that the secretary is hereby authorized to close the season earlier than that time if the season is closed or projected to be closed in adjacent Federal waters.

Effective immediately, the minimum size for red snapper harvested commercially is reduced to 13 inches total length.

All applicable rules regarding red snapper harvest including size, daily take and possession limits established by the commission shall be in effect during the season hereby established.

During the effective period of this Declaration of Emergency, the recreational daily take and possession limit

and commercial size limit set out in LAC 76:VII.335 are hereby superceded.

The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to close the recreational red snapper season when he is informed by the Regional Administrator of NMFS that the recreational red snapper season is closed or projected to be closed in adjacent Federal waters.

The commission also hereby authorizes the secretary to modify the opening and closing dates in State waters if he is notified that the opening and closing of Federal waters are other than those specified in this Declaration of Emergency, and to open an additional recreational red snapper season in Louisiana state waters if he is informed that NMFS has opened an additional recreational season, and to close such season when he is informed that the recreational season is closed or projected to be closed in adjacent Federal waters.

Effective with any recreational take or possession limit under this Emergency Rule, no person shall recreationally harvest or possess red snapper whether taken from within or without Louisiana territorial waters in excess of such established trip or possession limit.

Effective with any recreational red snapper season closure, no person except those who possess a commercial reef fish permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish, and who are legally taking red snapper under federal rules regarding Individual Fishing Quotas for red snapper, shall possess any red snapper whether taken from within or without Louisiana territorial waters.

Earl P. King, Jr.
Chairman

0704#042

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System
(LAC 28:LXXXIII.Chapters 43 and 45)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC 28:LXXXIII). The Indicators replacing the District Responsibility Index provide a more specific picture of how districts are to be held accountable. Details of the District Accountability Release required clarification because of the 2005 hurricanes.

Title 28 EDUCATION

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

Chapter 43. District Accountability

§4302. District Responsibility Indicators

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

1. full authority to teach (standard certification);
2. provisional authority to teach (Out of Field or Temporary Authority—TAT, OFAT, TEP);
3. no authority to teach (no certification).

B. The LDE shall calculate two teacher certification indices.

1. Low Performing Schools (1 Star and Academically Unacceptable)

2. Other Schools, Not Low Performing (2 Star and above)

3. In instances when a district's schools all fall into 1 category (low performing or other), the index for that category shall also be considered the overall Teacher Certification Indicator.

4. The low performing school index is assigned a 75 percent weighting and the other school index a 25 percent weighting in the Teacher Certification Indicator.

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

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

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

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

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

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

10. The District Teacher Certification Indicator is the sum of the values from 8 and 9 (above).

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

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

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

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

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

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

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

2. Students enrolled in a district for at least 1 full day of a given academic year, less those students exiting the district school system for legitimate reasons (as defined in the Student Information System User Guide) shall be included in the denominator used to calculate the 8th Grade Persistence Indicator.

3. Since the calculation aggregates two years of student data, those students eligible for inclusion in the denominator in 1 or both of the appropriate two years shall provide the count to be used as the denominator.

4. The numerator is comprised of those students in the denominator who are still enrolled in public education on October 1 of the following academic year.

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

District 8th Grade Persistence Indicator Calculation						
Enrolled			Returned Oct 1			
2003-04	2004-05	Total	2004	2005	Total	Percent Returned
669	713	1382	650	685	1335	96.6 percent

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

District 8th Grade Persistence Indicator	
Indicator Value	Label
99.0-100.0	Exceptional
98.0-98.9	Adequate
97.0-97.9	Marginal
< 97.0	Unacceptable

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:634 (April 2005).

§4310. Subgroup Component AYP (Adequate Yearly Progress)

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

d. For the non-proficient reduction portion of the safe harbor test, a comparison of current year assessment data to the previous year assessment data shall be used. For the additional academic indicator check for the safe harbor test and for the whole grade-cluster check, attendance and dropout data from the prior year will be compared to data from two years prior.

i. For 2005-06 only, the safe harbor comparison of assessment results shall include only English language arts and mathematics results from grades 4, 8, and 10.

ii. Beginning in 2006-07, safe harbor shall be determined using English language arts and mathematics assessment data from grades 3-8 and 10.

e - e.iii. ...

f. To ensure high levels of reliability, Louisiana will apply a 99 percent confidence interval to the calculations of subgroup component determinations for:

B. - B.5. ...

C. AMO

1. The Annual Measurable Objective (AMO) is the percent of students required to reach the proficient level in a given year on the standards-based assessments, which through 2005 will include English language arts and mathematics tests for 4th, 8th, and 10th grades. Beginning with Spring 2006 test results, proficiency levels shall be determined using English language arts and mathematics assessment data from grades 3-8 and 10.

a. Proficient = a score of basic, mastery or advanced.

C.2. - E.2.b. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1447 (July 2004), amended LR 30:2446 (November 2004), LR 31:424 (February 2005), LR 31:633 (March 2005), LR 31:913 (April 2005), LR 32:1029 (June 2006), LR 33:635 (April 2005).

§4311. Performance Labels

A. - A.1. ...

B. A label shall be reported for the District Responsibility Index (DRI) and for each of the four indicators through the Spring 2006 district accountability release. The District Responsibility Index shall be discontinued following this release.

District Responsibility Index	DRI Label
120.0 or more	Highly responsive
100.0-119.9	Adequately responsive
80.0-99.9	Responsive
60.0-79.9	Minimally responsive
0.0-59.9	Unresponsive

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

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

§4315. Progress Report

A. The Louisiana Department of Education shall publish a district accountability report. The report shall contain the labels for the DPS and DRI and for each of the four indicators through Spring 2006 when the DRI shall be discontinued. The report shall also contain the percent poverty, poverty ranking, and percentage of students enrolled in public education for the district, as well as data from the subgroup component.

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

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

Chapter 45. Disaster Considerations for School and District Accountability

§4503. One Year Waiver for "Severe Impact" Schools and Districts

A. - D. ...

E. Districts shall be considered "Severe Impact" districts and receive a one year waiver from accountability labels and decisions if:

1. they are closed for 18 consecutive school days; or
2. they gain or lose 25 percent of their testing population before October 1; or
3. they have 25 percent or more of their schools granted a one year waiver or classified as new schools due to a disaster.

F. - M. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1412 (August 2006), amended LR 33:635 (April 2005).

§4517. District Performance Score Calculations with Displaced Students

A. The District Performance Scores will be calculated using the same indices as School Performance Scores with displaced students excluded.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1414 (August 2006), amended LR 33:636 (April 2005).

Weegie Peabody
Executive Director

0704#003

RULE

Board of Elementary and Secondary Education

Bulletin 1794—State Textbook Adoption
Policy and Procedure Manual
(LAC 28:XXXIII.301, 303, 319, 503, 723, and 2001)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1794—State Textbook Adoption Policy and Procedure Manual* (LAC Part XXXIII). This action is required as part of U.S. Department of Education approval of IDEA, 2004 related to the purchase of K-12 Instructional Materials and by action of the State Board of Elementary and Secondary Education in exercising its administrative and oversight authority for the state textbook adoption process.

**Title 28
EDUCATION**

Part XXXIII. Bulletin 1794—State Textbook Adoption Policy and Procedure Manual

Chapter 3. General Provisions

§301. Definitions

*Blind Persons or other Persons with Print Disabilities*¹—children served under these regulations who may qualify to receive books and other publications produced in specialized formats in accordance with the Act entitled "An Act to Provide Books for the Adult Blind," approved March 3, 1931, 2 U.S.C. 135a (including footnote)

National Instructional Materials Access Center (NIMAC)—the center established in section 674(e) of the Act, through the American Printing House for the Blind (APH), not later than one year after the date of enactment of IDEA. NIMAC's duties are:

1. to receive and maintain a catalog of print instructional materials prepared in the NIMAS, as

established by the secretary, made available to such center by the textbook publishing industry, State Educational Agencies (SEAs), and LEAs;

2. to provide access to print instructional materials, including textbooks, in accessible media, free of charge, to blind or other persons with print disabilities in elementary schools and secondary schools, in accordance with such terms and procedures as the NIMAC may prescribe;

3. to develop, adopt and publish procedures to protect against copyright infringement, with respect to the print instructional materials provided in Sections 612(a)(23) and 613(a) (6) of the Act.

National Instructional Materials Accessibility Standard (NIMAS)—given that term in Section 674(e)(3)(B) of the Act (NIMAS means the standard established by the secretary to be used in the preparation of electronic files suitable and used solely for efficient conversion into specialized formats).

Print Instructional Materials—to be printed textbooks and related printed core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by a SEA or LEA for use by students in the classroom.

Specialized Formats—that term in section 674(e)(3)(D) of the Act (*Specialized format* means Braille, audio, or digital text which is exclusively for use by blind or other persons with disabilities; and with respect to print instructional materials, includes large print formats when such materials are distributed exclusively for use by blind or other persons with disabilities).

Timely Manner—at the same time as non-disabled peers.

¹The Library of Congress regulations (36 CFR 701.6(b)(1)) related to the Act to Provide Books for the Adult Blind (approved March 3, 1931, 2 U.S.C. 135a) provide that "blind persons or other persons with print disabilities" include: (i) Blind persons whose visual acuity, as determined by competent authority, is 20/200 or less in the better eye with correcting glasses, or whose widest diameter if visual field subtends an angular distance no greater than 20 degrees. (ii) Persons whose visual disability, with correction and regardless of optical measurement, is certified by competent authority as preventing the reading of standard printed material. (iii) Persons certified by competent authority as unable to read or unable to use standard printed material as a result of physical limitations. (iv) Persons certified by competent authority as having a reading disability resulting from organic dysfunction and of sufficient severity to prevent their reading printed material in a normal manner. Competent authority is defined in 36 CFR 701.6(b)(2) as follows: (i) In cases of blindness, visual disability, or physical limitations "competent authority" is defined to include doctors of medicine, doctors of osteopathy, ophthalmologists, optometrists, registered nurses, therapists, professional staff of hospitals, institutions, and public or welfare agencies (e.g., social workers, case workers, counselors, rehabilitation teachers, and superintendents). (ii) In the case of a reading disability from organic dysfunction, competent authority is defined as doctors of medicine who may consult with colleagues in associated disciplines.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1436 (August 1999), repromulgated LR 26:992 (May 2000), amended LR 32:1030 (June 2006), LR 33:636 (April 2005).

§303. Textbook Approval

A. ...

B. The state shall adopt materials that meet the National Instructional Materials Accessibility Standards (NIMAS).

The state shall coordinate with the National Instructional Materials Access Center (NIMAC) for preparation and storage of electronic files suitable and use solely for conversion into specialized formats.

C. In carrying out this Section, the state to the maximum extent possible, shall work collaboratively with all agencies responsible for assistive technology programs.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S.17:8(A)(B); R.S. 17: 351(A)(B).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1437 (August 1999), repromulgated LR 26:992 (May 2000), amended LR 33:636 (April 2005).

§319. Establish Procedures for Concerned Citizens' Involvement in the Review Process and a Procedure for Response by Textbook Publishers

A. A minimum of eight public sites shall be established for display and review of all basal textbooks presented for consideration. Sites shall include, at a minimum, three cooperating libraries in New Orleans to be determined by the New Orleans Public Library system, two in cooperating library branches in Baton Rouge, and in cooperating libraries in Covington, Hammond, Metairie, Marrero, Bossier City, Natchitoches, Ruston, DeRidder, New Iberia, Opelousas, Bogalusa, Shreveport, Monroe, Alexandria, Lake Charles, Lafayette, and Houma.

1. A list of public review sites will be posted on the department's website for a minimum of 90 days prior to the adoption of new textbooks.

2. Four copies of each textbook under review will be provided at each participating location, three of which shall be available to check out.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1440 (August 1999), repromulgated LR 26:996 (May 2000), amended LR 33:637 (April 2005).

Chapter 5. Local School System Responsibilities

§503. Local Planning

A. ...

B. The LEA that chooses to coordinate with the National Instructional Materials Access Center (NIMAC), when purchasing print instructional materials must acquire those instructional materials in the same manner, and subject to the same conditions as the state under §303.

1. If an LEA chooses not to coordinate with the NIMAC, the LEA must provide an assurance to the state that instructional materials will be provided to blind persons or other persons with print disabilities in a timely manner.

2. The LEA has a responsibility to ensure that children with disabilities who need instructional materials in accessible formats but are not included under the definition of blind or other persons with print disabilities in 34 CFR 300.172(e)(1)(i) or who need materials that cannot be produced from NIMAS files, receive those instructional materials in a timely manner.

C. The LEA shall ensure that children with disabilities who need instructional materials in accessible formats but are not included under the definition of blind or other persons with print disabilities in 34 CFR 300.172(e)(1)(i) or who need materials that cannot be produced from NIMAS

files, receive those instructional materials in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1442 (August 1999), repromulgated LR 26:998 (May 2000), amended LR 29:124 (February 2003), LR 33:637 (April 2005).

Chapter 7. Publishers' Responsibilities

§723. Braille Accessibility

A. ...

B. Publishers shall furnish, within 90 days of state adoption, to the National Instructional Materials Access Center electronic files containing contents of the print instruction materials using the NIMAS.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1449 (August 1999), repromulgated LR 26:1005 (May 2000), amended LR 33:637 (April 2005).

Chapter 20. Appendix G

§2001. National Instructional Materials Accessibility Standard (NIMAS)

National Instructional Materials Accessibility Standard (NIMAS)

1. TECHNICAL SPECIFICATIONS—THE BASELINE ELEMENT SET

A. The Baseline Element Set details the minimum requirement that must be delivered to fulfill the NIMAS. It is the responsibility of publishers to provide this NIMAS-conformant XML content file, a package file (OPF), a PDF-format copy of the title page (or whichever page(s) contain(s) ISBN and copyright information), and a full set of the content's images. All of the images included within a work must be provided in a folder and placeholders entered in the relevant XML document indicating their location (all images must be included). The preferred image type is SVG, next is either PNG or JPG format. Images should be rendered in the same size/proportion as their originals at 300 dpi. Images should be named with relative path filenames in XML files (example: ``). NIMAS-conformant content must be valid to the NIMAS 1.1 [see ANSI/NISO Z39.86 2005 or subsequent revisions]. In addition, files are required to use the tags from the Baseline Element Set when such tags are appropriate. Publishers are encouraged to augment the required Baseline Element Set with tags from the Optional Element Set (elements not included in the standard) as applicable. For the purposes of NIMAS, appropriate usage of elements, both baseline and optional, is defined by the DAISY Structure Guidelines. Files that do not follow these guidelines in the selection and application of tags are not conformant to this standard. Both optional elements and appropriate structure guidelines may be located within Z39.86-2002 and Z39.86-2005 available from <http://www.daisy.org/z3986/>. Use of the most current standard is recommended.

The Baseline Element Set Document-level tags

Element	Description
dtbook	The root element in the Digital Talking Book DTD. <dtbook> contains metadata in <head> and the contents itself in <book>.
head	Contains metainformation about the book but no actual content of the book itself, which is placed in <book>. This information is consonant with the <head> information in xhtml, see [XHTML11STRICT]. Other miscellaneous

Element	Description
	elements can occur before and after the required <title>. By convention <title> should occur first.
book	Surrounds the actual content of the document, which is divided into <frontmatter>, <bodymatter>, and <rearmatter>. <head>, which contains metadata, precedes <book>.
meta	Indicates metadata about the book. It is an empty element that may appear repeatedly only in <head>.
title	Contains the title of the book but is used only as meta-information in <head>. Use <doctitle> within <book> for the actual book title, which will usually be the same.

Structure and Hierarchy

Element	Description
frontmatter	Usually contains <doctitle> and <docauthor>, as well as preliminary material that is often enclosed in appropriate <level> or <level1> etc. Content may include a copyright notice, a foreword, an acknowledgements section, a table of contents, etc. <frontmatter> serves as a guide to the content and nature of a <book>.
bodymatter	Consists of the text proper of a book, as contrasted with preliminary material <frontmatter> or supplementary information in <rearmatter>.
rearmatter	Contains supplementary material such as appendices, glossaries, bibliographies, and indices. It follows the <bodymatter> of the book.
level1	The highest-level container of major divisions of a book. Used in <frontmatter>, <bodymatter>, and <rearmatter> to mark the largest divisions of the book (usually parts or chapters), inside which level2 subdivisions (often sections) may nest. The class attribute identifies the actual name (e.g., part, chapter) of the structure it marks. Contrast with <level>.
level2	Contains subdivisions that nest within <level1> divisions. The class attribute identifies the actual name (e.g., subpart, chapter, subsection) of the structure it marks.
level3	Contains sub-subdivisions that nest within <level2> subdivisions (e.g., sub-subsections within subsections). The class attribute identifies the actual name (e.g., section, subpart, subsection) of the subordinate structure it marks.
level4	Contains further subdivisions that nest within <level3> subdivisions. The class attribute identifies the actual name of the subordinate structure it marks.
level5	Contains further subdivisions that nest within <level4> subdivisions. The class attribute identifies the actual name of the subordinate structure it marks.
level6	Contains further subdivisions that nest within <level5> subdivisions. The class attribute identifies the actual name of the subordinate structure it marks.
h1	Contains the text of the heading for a <level1> structure.
h2	Contains the text of the heading for a <level2> structure.
h3	Contains the text of the heading for a <level3> structure.
h4	Contains the text of the heading for a <level4> structure.
h5	Contains the text of the heading for a <level5> structure.
h6	Contains the text of the heading for a <level6> structure.

Block Elements

Element	Description
author	Identifies the writer of a work other than this one. Contrast with <docauthor>, which identifies the author of this work. <author> typically occurs within <blockquote>.
blockquote	Indicates a block of quoted content that is set off from the surrounding text by paragraph breaks. Compare with <q>, which marks short, inline quotations.
list	Contains some form of list, ordered or unordered. The list may have intermixed heading <hd> (generally only one, possibly with <prodnote>) and an intermixture of list items and <pagenum>. If bullets and outline enumerations are part of the print content, they are

Element	Description
	expected to prefix those list items in content, rather than be implicitly generated.
li	Marks each list item in a <list>. content may be either inline or block and may include other nested lists. Alternatively it may contain a sequence of list item components, <lic>, that identify regularly occurring content, such as the heading and page number of each entry in a table of contents.
hd	Marks the text of a heading in a <list> or <sidebar>.
note	Marks a footnote, endnote, etc. Any local reference to <note id="yyy"> is by <noteref idref="#yyy">. [Attribute id]
p	Contains a paragraph, which may contain subsidiary <list> or <dl>.
sidebar	Contains information supplementary to the main text and/or narrative flow and is often boxed and printed apart from the main text block on a page. It may have a heading <hd>
cite	Marks a reference (or citation) to another document.
dd	Marks a definition of the preceding term <dt> within a definition list <dl>. A definition without a preceding <dt> has no semantic interpretation, but is visually presented aligned with other <dd>.
dl	Contains a definition list, usually consisting of pairs of terms <dt> and definitions <dd>. Any definition can contain another definition list.
dt	Marks a term in a definition list <dl> for which a definition <dd> follows.

Inline Elements

Element	Description
em	Indicates emphasis. Usually is rendered in italics. Compare with .
q	Contains a short, inline quotation. Compare with <blockquote>, which marks a longer quotation set off from the surrounding text.
strong	Marks stronger emphasis than . Visually is usually rendered bold.
sub	Indicates a subscript character (printed below a character's normal baseline). Can be used recursively and/or intermixed with <sup>.
sup	Marks a superscript character (printed above a character's normal baseline). Can be used recursively and/or intermixed with <sub>.
br	Marks a forced line break.
line	Marks a single logical line of text. Often used in conjunction with <linenum> in documents with numbered lines. [Include in baseline element set. Use only when line breaks must be preserved to capture meaning (e.g., poems, legal texts).]
linenum	Contains a line number, for example in legal text. [Include in baseline element set. Use only when <line> is used, and only for lines numbered in print book.]
pagenum	Contains one page number as it appears from the print document, usually inserted at the point within the file immediately preceding the first item of content on a new page. [NB: Only valid when includes id attribute].
noteref	Marks one or more characters that reference a footnote or endnote <note>. Contrast with <annoref>. <noteref> and <note> are independently skippable.

Tables

Element	Description
table	Contains cells of tabular data arranged in rows and columns. A <table> may have a <caption>. It may have descriptions of the columns in <col>s or groupings of several <col> in <colgroup>. A simple <table> may be made up of just rows <tr>. A long table crossing several pages of the print book should have separate <pagenum> values for each of the pages containing that <table> indicated on the page where it starts. Note the logical order

Element	Description
	of optional <thead>, optional <tfoot>, then one or more of either <tbody> or just rows <tr>. This order accommodates simple or large, complex tables. The <thead> and <tfoot> information usually helps identify content of the <tbody> rows. For a multiple-page print <table> the <thead> and <tfoot> are repeated on each page, but not redundantly tagged.
td	Indicates a table cell containing data.
tr	Marks one row of a <table> containing <th> or <td> cells.

Images

Element	Description
imggroup	Provides a container for one or more and associated <caption>(s) and <prodnote>(s). A <prodnote> may contain a description of the image. The content model allows: 1) multiple if they share a caption, with the ids of each in the <caption imgref="id1 id2 ...">, 2) multiple <caption> if several captions refer to a single where each caption has the same <caption imgref="xxx">, 3) multiple <prodnote> if different versions are needed for different media (e.g., large print, braille, or print). If several <prodnote> refer to a single , each prodnote has the same <prodnote imgref="xxx">.
caption	Describes a <table> or . If used with <table> it must follow immediately after the <table> start tag. If used with or <imggroup> it is not so constrained.

B. The Optional Elements and Guidelines for Use

1. Publishers are encouraged to apply markup beyond the baseline (required) elements. The complete DTBook Element Set reflects the tags necessary to create the six types of Digital Talking Books and Braille output. Because of the present necessity to subdivide the creation of alternate format materials into distinct phases, the Panel determined that baseline elements would be provided by publishers, and optional elements would be added to the NIMAS conformant files by third party conversion entities. In both circumstances the protocols for tagging digital files should conform to the most current ANSI/NISO Z39.86 specification. Content converters are directed to the most current DAISY Structure Guidelines (<http://www.daisy.org/z3986/>) for guidance on their use. Since the publication of the original National File Format report from which the NIMAS technical specifications were derived, ANSI/NISO Z39.86-2002 was updated and is now ANSI/NISO Z39.86-2005. It may be best to avoid using the following optional elements which are no longer included in ANSI/NISO Z39.86-2005: style, notice, hr, and levelhd. Also, the following new elements were introduced by ANSI/NISO Z39.86-2005 and should be considered optional elements for the NIMAS: bridgehead, byline, covertitle, dateline, epigraph, linegroup, and poem. Please refer to ANSI/NISO Z39.86-2005 for additional information regarding these elements. To access the ANSI/NISO Z39.86-2005 specification, go to <http://www.daisy.org/z3986/>.

2. Package File

(a). A package file describes a publication. It identifies all other files in the publication and provides descriptive and access information about them. A publication must include a package file conforming to the NIMAS. The package file is based on the Open eBook Publication Structure 1.2 package file specification (For most recent detail please see <http://www.openebook.org/oebps/oebps1.2/download/oeb12-xhtml.htm#sec2>).

(b). A NIMAS package file must be an XML-valid OeB PS 1.2 package file instance and must meet the following additional standards:

(i) The NIMAS Package File must include the following Dublin Core (dc:)metadata:

- dc:Title.
- dc:Creator (if applicable).
- dc:Publisher.
- dc>Date (Date of NIMAS-compliant file creation—yyyy-mm-dd).
- dc:Format ("NIMAS 1.0").
- dc:Identifier (a unique identifier for the NIMAS-compliant digital publication, e.g., print ISBN + "- NIMAS"—exact format to be determined).
- dc:Language (one instance, or multiple in the case of a foreign language textbook, etc.).
- dc:Rights (details to be determined).
- dc:Source (ISBN of print version of textbook).

(ii). And the following x-metadata items:

- nimas-SourceEdition (the edition of the print textbook).
- nimas-SourceDate (date of publication of the print textbook).

(iii). The following metadata were proposed also as a means of facilitating recordkeeping, storage and file retrieval:

- dc:Subject (Lang Arts, Soc Studies, etc.).
- nimas-grade (specific grade level of the print textbook, e.g.; Grade 6).
- nimas gradeRange (specific grade range of the print textbook, e.g.; Grades 4–5).

(iv). An additional suggestion references the use of: dc:audience:educationLevel (for the grade and gradeRange identifiers, noting that Dublin Core recommends using educationLevel with an appropriate controlled vocabulary for context, and recommends the U.S. Department of Education's Level of Education vocabulary online at <http://www.ed.gov/admin/reference/index.jsp>. Using education Level obviates the need for a separate field for grade Range since dc elements can repeat more than once. A book used in more than one grade would therefore have two elements, one with value "Grade 4" and another with value "Grade 5."

Note: A final determination as to which of these specific metadata elements to use needs to be clarified in practice. The package manifest must list all provided files (text, images, etc.). (Note: For purposes of continuity and to minimize errors in transformation and processing, the NIMAS compliant digital text should be provided as a single document.)

3. Modular Extensions

(a). The most current DAISY/NISO standard, formally the ANSI/NISO Z39.86, Specifications for the Digital Talking Book defines a comprehensive system for creating Digital Talking Books. A part of this standard is DTBook, an XML vocabulary that provides a core set of elements needed to produce most types of books. However, DTBook is not intended to be an exhaustive vocabulary for all types of books.

NOTE: Guidelines for the correct approach to extend the DAISY/NISO standard have been established. Mathematics, video support, testing, workbooks, music, dictionaries, chemistry, and searching are some of the extensions that have been discussed. Visit <http://www.daisy.org/z3986/> to learn more about modular extensions.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:637 (April 2005).

Weegie Peabody
Executive Director

0704#002

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Incorporation by Reference—2006
(LAC 33:I.3931; V.3099; IX.2301, 4901,
and 4903; and XV.1517)(MM001ft)

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 has amended the Environmental Quality regulations, LAC 33:I.3931; V.3099; IX.2301, 4901, and 4903; and XV.1517 (Log #MM001ft).

This Rule is identical to federal regulations found in 10 CFR 71, Appendix A, January 1, 2006; and 40 CFR 117.3, 136, 266 (Appendices I-IX and XI-XIII), 302.4, 401, 405-415, and 417-471, July 1, 2006, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule incorporates by reference into LAC 33:I, V, IX, and XV the corresponding federal reportable quantity list of hazardous substances in 40 CFR 117.3 and 302.4, July 2, 2006; hazardous waste regulations in 40 CFR Part 266, Appendices I-IX and XI-XIII, July 1, 2006; National Pollutant Discharge Elimination System regulations in 40 CFR Parts 136, 401, 405-415, and 417-471, July 1, 2006; and radiation regulations in 10 CFR 71, Appendix A, January 1, 2006. In order for Louisiana to maintain equivalency with federal regulations, the most current Code of Federal Regulations must be adopted into the LAC. This rulemaking is necessary to maintain delegation, authorization, etc., granted to Louisiana by EPA. This incorporation by reference package will keep Louisiana's regulations current with their federal counterparts. The basis and rationale for this Rule are to mirror the federal regulations in order to maintain equivalency.

This 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 Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 2. Notification

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

A. Incorporation by Reference of Federal Regulations

1. Except as provided in Subsection B of this Section, the following federal reportable quantity lists are incorporated by reference:

a. 40 CFR 117.3, July 1, 2006, Table 117.3—Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and

b. 40 CFR 302.4, July 1, 2006, Table 302.4—List of Hazardous Substances and Reportable Quantities.

A.2. - Note #. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:751 (April 2004), LR 30:1669 (August 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 32:2248 (December 2006), LR 33:640 (April 2007).

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental

Quality—Hazardous Waste

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3099. Appendices—Appendix A, B, C, D, E, F, G, H, I, J, K, and L

Appendix A. Tier I and Tier II Feed Rate and Emissions Screening Limits For Metals

A. 40 CFR 266, Appendix I, July 1, 2006, is hereby incorporated by reference.

Appendix B. Tier I Feed Rate Screening Limits for Total Chlorine

A. 40 CFR 266, Appendix II, July 1, 2006, is hereby incorporated by reference.

Appendix C. Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride

A. 40 CFR 266, Appendix III, July 1, 2006, is hereby incorporated by reference.

Appendix D. Reference Air Concentrations

A. 40 CFR 266, Appendix IV, July 1, 2006, is hereby incorporated by reference, except that in regulations incorporated thereby, references to 40 CFR 261, Appendix VIII and 266, Appendix V shall mean LAC 33:V.3105, Table 1 and LAC 33:V.3099, Appendix E, respectively.

Appendix E. Risk-Specific Doses (10⁻⁵)

A. 40 CFR 266, Appendix V, July 1, 2006, is hereby incorporated by reference.

Appendix F. Stack Plume Rise [Estimated Plume Rise (in Meters) Based on Stack Exit Flow Rate and Gas Temperature]

A. 40 CFR 266, Appendix VI, July 1, 2006, is hereby incorporated by reference.

Appendix G. Health-Based Limits for Exclusion of Waste-Derived Residues

A. 40 CFR 266, Appendix VII, July 1, 2006, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII, 266.112(b)(1) and (b)(2)(i), and 268.43 shall mean LAC

33:V.3105, Table 1, 3025.B.1 and B.2.a, and LAC 33:V.2299.Appendix, Table 2, respectively.

Appendix H. Organic Compounds for Which Residues Must Be Analyzed

A. 40 CFR 266, Appendix VIII, July 1, 2006, is hereby incorporated by reference.

Appendix I. Methods Manual for Compliance with the BIF Regulations

A. 40 CFR 266, Appendix IX, July 1, 2006, is hereby incorporated by reference, except as follows.

A.1. - B. ...

Appendix J. Lead-Bearing Materials That May Be Processed in Exempt Lead Smelters

A. 40 CFR 266, Appendix XI, July 1, 2006, is hereby incorporated by reference.

Appendix K. Nickel or Chromium-Bearing Materials That May Be Processed in Exempt Nickel-Chromium Recovery Furnaces

A. 40 CFR 266, Appendix XII, July 1, 2006, is hereby incorporated by reference, except that the footnote should be deleted.

Appendix L. Mercury-Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units

A. 40 CFR 266, Appendix XIII, July 1, 2006, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII shall mean LAC 33:V.3105, Table 1.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:827 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:300 (March 2001), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 30:751 (April 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 33:640 (April 2007).

Part IX. Water Quality

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

Chapter 23. Definitions and General LPDES Program Requirements

§2301. General Conditions

A. - E. ...

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter shall refer to those regulations published in the July 1, 2006 CFR, unless otherwise noted.

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 23:199 (February 1997), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003),

repromulgated LR 30:230 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007).

Chapter 49. Incorporation by Reference

§4901. 40 CFR Part 136

A. 40 CFR Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2006, in its entirety, is hereby incorporated by reference.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007).

§4903. 40 CFR Chapter I, Subchapter N

A. 40 CFR Chapter I, Subchapter N, Effluent Guidelines and Standards, Parts 401, 405-415, and 417-471, July 1, 2006, are hereby incorporated by reference.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29:1467 (August 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division LR 32:604 (April 2006), LR 32:819 (May 2006), LR 33:641 (April 2007).

Part XV. Radiation Protection

Chapter 15. Transportation of Radioactive Material

§1517. Incorporation by Reference

A. 10 CFR Part 71, Appendix A, January 1, 2006, is hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000), amended LR 27:2233 (December 2001), LR 28:997 (May 2002), LR 29:701 (May 2003), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007).

Herman Robinson, CPM
Executive Counsel

0704#030

RULE

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

**Lead-Based Paint Activities
(LAC 33:III.2805-2813)(AQ262)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.2805, 2807, 2809, 2811, and 2813 (Log #AQ262).

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

This 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 Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

**Chapter 28. Lead-Based Paint
Activities—Recognition, Accreditation,
Licensure, and Standards for Conducting
Lead-Based Paint Activities**

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

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

- A.1. - B.4.a. ...
- b. résumés, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements; and
- c. certificates from train-the-trainer courses, lead-specific training courses, and accreditations, as evidence of meeting the training requirements;

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

6. - 6.d....

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

7. - 9. ...

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

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

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

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

B.15. - E. ...

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

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

3. ...

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

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

- a. the name of the training course to be taught;
- b. the dates and length of the training course;
- c. the principal/guest instructors that will be teaching the course;
- d. the name and telephone number of the training manager; and
- e. the location where the course will be taught; and

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

F. - G.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1666 (December 1997), amended by the Office of Environmental Assessment,

Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2337 (November 2002), amended by the Office of Environmental Assessment, LR 30:2804 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2445 (October 2005), LR 33:642 (April 2007).

§2807. Accreditation of Individuals

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

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

3. ...

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

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

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

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

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

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

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

E. - E.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1669 (December 1997), amended LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2337 (November 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 33:643 (April 2007).

§2809. Licensure of Lead Contractors

A. Licensure Requirements

1. In order to bid and/or perform abatement activities, lead contractors must obtain a lead-based paint abatement and removal license from the State of Louisiana Licensing Board for Contractors. Prior to obtaining an initial or renewal license, the lead contractor must submit an application for approval, along with the appropriate fees as required in LAC 33:III.223, to the Office of Environmental Services, Air Permits Division, and certify to the department that the following criteria have been, or will be, met.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1671 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2338 (November 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 33:643 (April 2007).

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

A. - E.4. ...

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

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

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

4.d. - 13. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1672 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), repromulgated LR 27:39 (January 2001), amended LR 28:2338 (November 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 33:644 (April 2007).

§2813. Recordkeeping Requirements for Lead-Based Paint Activities

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

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

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

Protection, Air Quality Division, LR 23:1676 (December 1997), amended by the Office of the Secretary, Legal Affairs Division, LR 33:644 (April 2007).

Herman Robinson, CPM
Executive Counsel

0704#029

RULE

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

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

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

Accordingly, OGB hereby adopts the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 7. Schedule of Benefits—PPO

§701. Comprehensive Medical Benefits

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

Lifetime maximum for all benefits, except outpatient prescription drug benefits, per person	\$1,000,000
Lifetime maximum for outpatient prescription drug benefits, per person	\$500,000

A.1. - D. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1843 (October 1999), amended LR 26:488 (March 2000), LR 27:719, 720, 722 (May 2001), LR 27:1887 (November 2001), LR 28:2345 (November 2002), LR 29:340, 342, 343 (March 2003), repromulgated LR 29:578 (April 2003), amended LR 30:1192 (June 2004), LR 32:1897 (October 2006), LR 33:644 (April 2007).

Part V. Exclusive Provider Organization (EPO) Plan of Benefits

Chapter 7. Schedule of Benefits—EPO

§701. Comprehensive Medical Benefits

A. Eligible expenses for professional medical services are reimbursed on a fee schedule of maximum allowable

charges. All eligible expenses are determined in accordance with plan limitations and exclusions.

Lifetime maximum for all benefits, except outpatient prescription drug benefits, per person	\$2,000,000
Lifetime maximum for outpatient prescription drug benefits, per person	\$500,000

A.1. - E. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1823 (October 1999), amended LR 26:487 (March 2000), LR 27:717 and 719 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1886 (November 2001), LR 28:476 (March 2002), LR 28:2342, 2343 (November 2002), repromulgated LR 28:2509 (December 2002), amended LR 29:335, 337, 338 (March 2003), LR 30:1190 (June 2004), LR 32:1869 (October 2006). LR 33:644 (April 2007).

Part IX. Managed Care Option (MCO) Plan of Benefits
§701. Comprehensive Medical Benefits

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

1. Lifetime Maximum Benefits

Lifetime maximum for all benefits, except outpatient prescription drug benefits, per person	\$1,000,000
Lifetime maximum for outpatient prescription drug benefits, per person	\$500,000

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:901 (June 2003), amended LR 30:435 (March 2004), LR 33:645 (April 2007).

Tommy D. Teague
 Chief Executive Officer

0704#057

RULE

Office of the Governor
Manufactured Housing Commission

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

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

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 5. Manufactured Housing (Installation)

Subchapter A. General Requirements

§519. Placement of Used Homes

A. In accordance with 24 CFR Ch. XX §3280.305 et seq., used manufactured homes in the secondary market shall be sited effective January 1, 2007 in accordance with federal wind zone standards applicable for new homes in Louisiana zone II and III as set forth in 24 CFR Ch. XX § 3280.305 et seq., and thereafter amended. However, if any manufactured home is sited or is located at a retail outlet within Louisiana wind zone II or III prior to January 1, 2007 and the siting of this home or the location of this home at a retail outlet within wind zone II or III can be definitively documented through such means as an installation permit sticker issued by and/or returned to the commission; a title which uniquely identifies your home and references the physical location of siting; documentation establishing the location of a home at a retail outlet within zone II or III or some other independent means of credible documentation, then such manufactured home will be allowed to transfer indefinitely within the wind zone where it is sited or located at a retail outlet prior to January 1, 2007. Additionally, such manufactured home may also transfer to a less stringent wind zone than the zone where it is sited or located at a retail outlet prior to January 1, 2007; however, a manufactured home may not transfer to a more stringent wind zone than the zone where it is sited or located at a retail outlet as of December 31, 2006, unless the construction of such home complies with appropriate federal and state construction standards. Violations of this provision may result in civil penalties being levied against the appropriate party by the commission.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Manufactured Housing Commission, LR 33:645 (April 2007).

Deane M. Frazier
 Executive Director

0704#068

RULE

Office of the Governor
Office of Homeland Security and
Emergency Preparedness

Mandatory Evacuation of Designated Persons
 by Local Government in Advance of Hurricanes
 (LAC 55:XXI.Chapters 1 and 3)

Under the authority of R.S. 29:727(E)(13) and in accordance with R.S. 49:950 et seq., the Governor's Office of Homeland Security and Emergency Preparedness has adopted regulations that provide for emergency assessments, evacuation, and sheltering plans.

Title 55
PUBLIC SAFETY
Part XXI. Homeland Security and Emergency
Preparedness

Chapter 1. General Provisions

§101. Overview

A. Act 35 of the First Extraordinary Session of 2006, effective on March 1, 2006, established the Governor's Office of Homeland Security and Emergency Preparedness in R.S. 29:725.

B. Revised Statutes 29:727(E)(13) added by Act 36 of the First Extraordinary Session of 2006, effective February 23, 2006, requires the Office of Homeland Security and Emergency Preparedness, prior to May 31, 2006 to promulgate standards and regulations in accordance with the Administrative Procedure Act for local governments when a mandatory evacuation has been ordered for evacuation of people located in high risk areas utilizing all available modes of transportation, including but not limited to school and municipal buses, government-owned vehicles, vehicles provided by volunteer agencies, trains and ships in advance of the storm to public shelters located outside of the risk area with priority consideration being given to the special needs of the following classes of people:

1. people with specific special needs such as the elderly and the infirm;
2. tourists;
3. those who refuse to leave;
4. those without personal transportation.

C. Revised Statutes 29:727(E)(14) added by Act 36 of the First Extraordinary Session of 2006, effective February 23, 2006, requires the Office of Homeland Security and Emergency Preparedness, prior to May 31, 2006 to promulgate standards and regulations in accordance with the Administrative Procedure Act for local governments when a mandatory evacuation has been ordered for the evacuation or safe housing of essential workers located in high risk areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 33:646 (April 2007).

§103. Goals and Objectives

A. The goals of these regulations are:

1. to protect citizens who cannot protect themselves when threatened or endangered by an approaching hurricane;
2. to reduce loss of life due to impediments to self-evacuation from an approaching hurricane;
3. to protect essential workers whose jobs require that they remain in harm's way before, during and after a hurricane; and
4. to protect personal liberty while preserving law and order in areas evacuated due to imminent threat of a hurricane.

B. The objectives of these regulations are:

1. to identify the population which lacks means to self-evacuate;
2. to identify and provide for the use of available transportation resources for use by local governments during mandatory evacuations;
3. to identify and provide means of protection for essential workers whose employment or commission

requires that they remain in areas susceptible to damage and destruction wrought by hurricanes; and

4. to provide for establishment of rules by local government for citizens in high risk areas who refuse to leave when a mandatory evacuation is ordered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 33:646 (April 2007).

§105. Definitions

At Risk Population—people who fall within the following non-exclusive categories:

1. those without means of personal transportation;
2. the infirm who are not living in a public or private health care facility;
3. nursing home residents;
4. private hospital patients;
5. other special needs who are not confined to a health care facility;
6. hotel and motel guests.

High Risk Area—any parish that is located in whole or in part below Interstate 10 or Interstate 12 in the state of Louisiana.

Local Government—a parish and municipality of the state of Louisiana.

Essential Worker—persons working in public safety, government, disaster response, health care, or private business as designated and deemed necessary and/or critical for disaster response by their employer or by virtue of their official commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 33:646 (April 2007).

Chapter 3. Risk Assessment

§301. Biennial Risk Assessment

A. Every parish and municipality shall perform a biennial risk assessment for the at risk population with the results thereof to be provided to the Governor's Office of Homeland Security on or before December 1, 2006, and on or before that date every second year thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 33:646 (April 2007).

§303. Evacuating and Sheltering Private Nursing Home Residents

A. The evacuation and sheltering of private nursing home residents and private hospital patients is and shall remain the primary responsibility of the host health care facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 33:646 (April 2007).

§305. Municipal Risk Assessment

A. The municipal risk assessment shall consist of a survey of the people living within the corporate limits to identify the people in each category of the at risk population defined herein and the essential workers as defined herein,

and to determine whether the individuals so identified may need sheltering in a general population shelter or a special needs shelter as those terms are defined by the Louisiana Department of Health and Hospitals. The results of the municipal survey shall be furnished to the parish Office of Homeland Security and Emergency Management established pursuant to R.S. 29:727(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 33:646 (April 2007).

§307. Parish Risk Assessment

A. The parish risk assessment shall consist of a survey of the people living outside the corporate limits of any municipality to identify the people in the each category of the at risk population defined herein and the essential workers as defined herein, and to determine whether the individuals so identified may need sheltering in a general population shelter or a special needs shelter as those terms are defined by the Louisiana Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 33:647 (April 2007).

§309. Transportation

A. Every parish and municipality shall prepare an inventory of all available modes of transportation, including but not limited to school and municipal buses, government-owned vehicles, vehicles provided by volunteer agencies, trains and ships for use in a mandatory evacuation. A copy of the municipal inventory shall be provided to the parish office of homeland security and emergency management established pursuant to R.S. 29:727(B). A copy of the combined parish and municipal inventory shall be submitted biennially beginning on or before December 1, 2006, and on or before that date in every second year thereafter to the Governor's Office of Homeland Security and Emergency Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 33:647 (April 2007).

§311. Evacuation and Sheltering Plan

A.1. The parish Office of Homeland Security and Emergency Management established pursuant to R.S. 29:727(B), using the combined list of at risk population and essential workers and the combined list of available means of transportation, shall develop an evacuation and sheltering plan for each category of at risk population to include at a minimum:

- a. use of available means of transportation for evacuation of at risk population;
- b. means of notification of the at risk population of a mandatory evacuation;
- c. means of notification of at risk population of available transportation;
- d. determination of individuals and facilities where risk of sheltering in place outweighs the risk of loss of life during the evacuation process;

- e. coordination of transportation resources with a shelter destination outside of the impact area;
- f. provisions for medical emergencies which occur during the evacuation process;
- g. ways and means to execute the evacuation and sheltering plan within 36 hours of declaration of voluntary evacuation and within 12 hours of declaration of mandatory evacuation.

2. The plan shall be submitted to GOHSEP on or before March 1, 2007. Early compliance is encouraged.

B. The parish Office of Homeland Security and Emergency Management shall develop an evacuation and sheltering plan for essential workers which shall include at a minimum provisions for food, water, and shelter for at least 72 hours post landfall of any hurricane.

C. Each parish and municipality shall make provisions for those citizens who refuse to leave when a mandatory evacuation is ordered, which provisions shall respect the rights of personal liberty and freedom of all citizens, while protecting and preserving law and order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 33:647 (April 2007).

Col. Perry "Jeff" Smith, CPA
Director

0704#014

RULE

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

Fees (LAC 46:LXIII.Chapter 6)

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

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Chapter 6. Fees

§601. Licensing Fees

Licensing Fees	Amount
Application for Licensure	\$250
Oral Examination (Licensure, specialty change or additional specialty)	250
License Renewal	320
Emeritus License Renewal	160
Application for Certificate of Prescriptive Authority	250
Reinstatement of Lapsed License (Application plus renewal fee)	570

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:647 (April 2007).

§603. Administrative/Other Fees

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:648 (April 2007).

Jaime T. Monic
Executive Director

0704#040

RULE

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

Licenses (LAC 46:LXIII.900 and 901)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists has adopted LAC 46:LXIII.900 and amended LAC 46:LXIII.901.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Chapter 9. Licenses

§900. License Renewal

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:648 (April 2007).

§901. Renewal of Lapsed Licenses

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

B. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:489 (August 1980), amended LR 10:795 (October 1984), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:2074 (October 2003), LR 33:648 (April 2007)

Jaime T. Monic
Executive Director

0704#039

RULE

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

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

The Louisiana Board of Veterinary Medicine has amended LAC 46:LXXXV.400, 403, 405, 409, and 413 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1569. This text has been amended to alter the requirements and program approval of continuing veterinary medicine education for annual renewal of veterinary medicine license, from 16 credits hours per year to 20 credit hours per year with an expansion in the nature and substance of acceptable credit hours, in order to maintain and improve professional competencies for the health, welfare, and safety of the citizens and animals of Louisiana. This Rule becomes effective, after promulgation, for the period of time (July 1, 2007-June 30, 2008) for the 2008-2009 annual license renewal and every annual license renewal period thereafter.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 4. Continuing Veterinary Education

§400. Definitions

* * *

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:224 (March 1990), amended LR 19:1427 (November 1993), LR 33:648 (April 2007).

§403. Continuing Veterinary Education Requirements

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

1. any pre-approved program as described in §409;
2. ...
3. the 20 hour requirement for annual renewal of a license may be taken in any combination of the following board approved programs: clinical, alternative, regulatory, practice management, and/or research.

B. - E. ...

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

HISTORICAL NOTE: Promulgated as §405 by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:224 (March 1990), amended LR 19:1427 (November 1993), LR 23:1147 (September 1997), LR 28:1208 (June 2002), LR 33:649 (April 2007).

§405. Exceptions and Exemptions

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

B. - C.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:224 (March 1990), amended LR 19:1428 (November 1993), LR 23:1147 (September 1997), LR 29:1478 (August 2003), LR 33:649 (April 2007).

§409. Approved Continuing Education Programs

A. ...

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

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

3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:224 (March 1990), amended LR 19:1428 (November 1993), LR 33:649 (April 2007).

§413. Non-Compliance

A. - D. ...

E. The promulgation of rule amendments by the board published in the *Louisiana Register* on April 20, 2007 shall become effective for the period of time (July 1, 2007-June 30, 2008) for the 2008-2009 annual license renewal and every annual license renewal period thereafter.

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

HISTORICAL NOTE: Promulgated as by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:225 (March 1990), amended LR 19:1428 (November 1993), LR 33:649 (April 2007).

Wendy D. Parrish
Administrative Director

0704#036

RULE

**Department of Health and Hospitals
Office of Addictive Disorders
Addictive Disorder Regulatory Authority**

**ADRA Documents and Payment of Costs
(LAC 46:LXXX.501)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office for Addictive Disorders, Addictive Disorder Regulatory Authority, pursuant to the authority vested in the Department of Health and Hospitals by the Addictive Disorders Practice Act, R.S. 37:3386-3390.6, has amended Title 46:LXXX by adopting §501 in Chapter 5, ADRA Documents and Payment of Costs.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXX. Substance Abuse Counselors

Chapter 5. ADRA Documents and Payment of Costs

§501. Fees

A. The fees and penalties of the ADRA shall be as follows.

1. Addiction Counselor and Prevention Practice Credential
 - a. Application \$100
 - b. Renewal of Credential \$200
 - c. Certification by Reciprocity \$200
 - d. Late Fee for Renewal \$150
 - e. Reinstatement of Credential \$200
2. Specialty Certifications
 - a. Application \$100
 - b. Renewal \$ 50
 - c. Late Fee for Renewal \$150
3. In-Training Status for Counselor and Prevention Practice Credential
 - a. Initial Application \$ 50
 - b. Annual Renewal \$ 25
 - c. Late Fee for Renewal \$ 75
4. Treatment and Prevention Para-professional
 - a. Initial Application \$ 25
 - b. Annual Renewal \$ 25
 - c. Late Fee for Renewal \$ 50
5. Approved Training or Educational Institute, Provider or Institution
 - a. Initial Application \$250
 - b. Annual Renewal \$250
 - c. Course Reports for Each Participant \$ 5
6. CEU Approval for Training or Educational Institutes, Providers or Institutions Who Do Not Obtain Approved Provider Status

- a. Approval per Course \$150
- b. Course Reports for Each Participant \$ 10

7. Approval of CEU Credits Not Obtained from an Approved Provider or where the Provider Has Not Received ADRA Approval of the Course

- a. For each 15 hours of CEU credit submitted \$100

8. The ADRA may impose an administrative fee not to exceed \$500 for each violation of its regulations committed by any person holding any ADRA practice credential, ADRA specialty certification, ADRA training status or other professional or para-professional status offered or recognized by the ADRA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3788.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, Addictive Disorder Regulatory Authority, LR 33:649 (April 2007).

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

0704#038

RULE

Department of Health and Hospitals Office of Public Health

Control of Rabies and Other Zoonotic Diseases
(LAC 51:III.101-111 and 303)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to authority granted by R.S. 40:4A(2)(a), and R.S. 40:1277, the Department of Health and Hospitals, Office of Public Health, has amended Part III of the Louisiana State Sanitary Code ("The Control of Rabies") in compliance with the Compendium of Animal Rabies and Control, 2006, current recommendation of Centers for Disease Control and Prevention, and local and state humane ordinances; and to correct several inaccuracies in the Code.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part III. The Control of Rabies and Other Zoonotic Diseases

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

§101. Definitions

[formerly paragraph 3:001]

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

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

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

Prairie Dogs—[Formerly paragraph 3:009] any burrowing rodents of the genus *Cynomys*. Prairie dogs can harbor monkeypox. Prairie dogs are also known to be a host for fleas, which carry the causative agent of Plague, the bacteria *Yersinia pestis*. These fleas have the potential to

infect other wild animals, as well as domestic animals and humans. Prairie dogs are not indigenous to Louisiana.

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1223 (June 2002), amended LR 33:650 (April 2007).

§103. Mandatory Vaccinations of Dogs, Cats, and Ferrets

[formerly paragraph 3:002]

A. No person shall own, keep or have in his custody a dog, cat, or ferret over three months of age that has not been vaccinated against rabies by a licensed veterinarian. Every owner of a dog, cat, or ferret shall cause said animal to be vaccinated initially with a series of two vaccinations, the first to be administered at three months of age, the second to be administered one year after the initial vaccination. Dogs, cats, or ferrets initially vaccinated later than three months of age shall also be administered a series of two vaccines, the second vaccine to be given one year after the initial vaccination. Subsequent booster vaccines shall be administered one year after the administration of a vaccine that confers one year of immunity and three years after the administration of a vaccine that confers three years of immunity. Approved vaccines and durations of immunity are listed in the most recent *Compendium of Animal Rabies Prevention and Control* prepared by the National Association of State Public Health Veterinarians, Inc.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1223 (June 2002), amended LR 33:650 (April 2007).

§105. Human Exposure to Domestic Animal Bites

[formerly paragraph 3:003]

A. When any dog, cat, or ferret bites a human being, said animal shall be confined (as described in §113) for a minimum of 10 days following the bite, or said animal shall be killed and the head submitted immediately to a laboratory of the Louisiana Department of Health and Hospitals for examination for rabies. During the observation period a

rabies vaccine should not be administered to the animal to avoid confusing signs of rabies with possible side effects of vaccine administration. Any dog, cat, or ferret that develops any signs during the 10-day observation period shall be reported immediately to the local health authority and, provided such signs are compatible with rabies as determined by a licensed veterinarian or the official state public health veterinarian, the animal shall be killed and the head submitted to a laboratory of the Louisiana Department of Health and Hospitals for examination.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1223 (June 2002), amended LR 33:650 (April 2007).

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1223 (June 2002), amended LR 33:651 (April 2007).

**§109. Animals Suspected of Being Infected with Rabies
[formerly Paragraph 3:006]**

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1223 (June 2002), amended LR 33:651 (April 2007).

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1224 (June 2002), amended LR 33:651 (April 2007).

**Chapter 3. Other Zoonotic Diseases
§303. Prohibition on Importation/Sale of Prairie Dogs**

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 29:1098 (July 2003), amended LR 33:651 (April 2007).

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

0704#026

RULE

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

Early and Periodic Screening, Diagnosis and Treatment
Psychological and Behavioral Services—Reimbursement
Rate Increase (LAC 50:XV.7701, 7703, and 7707)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.7701, 7703 and 7707 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening,

Diagnosis, and Treatment

Chapter 77. Psychological and Behavioral Services

§7701. Recipient Criteria

A. In order to be eligible for services, a Medicaid recipient must be under the age of 21 and meet one of the following criteria:

1. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:40 (January 2003), repromulgated LR 29:180 (February 2003), amended LR 33:651 (April 2007).

§7703. Covered Services

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:40 (January 2003), repromulgated LR 29:180 (February 2003), amended LR 33:651 (April 2007).

§7707. Reimbursement Methodology

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:40 (January 2003), repromulgated LR 29:180 (February 2003), amended LR 33:652 (April 2007).

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

0704#053

RULE

Department of Labor Office of Workers' Compensation

Court Hearing Procedures
(LAC 40:I.Chapters 55-66)

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

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Subpart 2. Hearing Rules

Chapter 55. General Provisions

Subchapter A. Definitions

§5501. Purpose; Definitions

A. - B. ...

Claimant—shall refer to the injured employee.

* * *

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

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:264 (February 1999), amended LR 25:1859 (October 1999), LR 33:652 (April 2007).

Subchapter C. Commencement

§5507. Commencement of a Claim

A. ...

B. Any claim may be initiated with the director, office of worker's compensation administration, or the district office

of proper venue by hand delivery, United States mail, facsimile transmission or electronic transmission (with verified signature) addressed to the Office of Worker's Compensation administration.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999) amended LR 25:1860 (October 1999), LR 33:652 (April 2007).

§5509. Delay for Answering

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

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended LR 25:1860 (October 1999), LR 33:652 (April 2007).

§5511. Service

A. ...

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

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended LR 25:1860 (October 1999), LR 33:652 (April 2007).

Subchapter D. Venue

§5515. Proper Venue

A. ...

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

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended LR 25:1860 (October 1999), LR 33:652 (April 2007).

Subchapter E. Recusal

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:1860 (October 1999), amended LR 33:652 (April 2007).

§5529. Recusal on Court's Own Motion

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

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

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

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

D. On written application of a workers' compensation judge, the chief judge shall immediately reassign the matter to another workers' compensation judge in either the same workers' compensation district office or another workers' compensation district office.

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

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended LR 25:1860 (October 1999), LR 33:653 (April 2007).

Subchapter F. Power and Authority

§5533. General

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

B. ...

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended LR 25:1860 (October 1999), LR 33:653 (April 2007).

§5537. Procedure

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

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended LR 25:1861 (October 1999), LR 33:653 (April 2007).

Subchapter G. Clerks

§5539. District Clerk; Pleadings Filed; Docket Books

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

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended LR 25:1861 (October 1999), LR 33:653 (April 2007).

Subchapter H. Bailiffs

§5541. Security

A. - C. ...

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

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended LR 25:1861 (October 1999), LR 33:653 (April 2007).

Subchapter I. Attorneys and Other Persons before the Court

§5547. Withdrawal of Counsel

A. ...

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

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999), amended LR 25:1862 (October 1999), LR 33:653 (April 2007).

Chapter 57. Actions

Subchapter A. General Provisions

§5701. Prescription; Filing Procedure

A. Prescription periods shall be as set forth in R.S. 23:1031.1.E, F, I, 1209, and 1234. Time limits shall be calculated from the date of mailing as shown by the post mark, other proof of mailing, the date a facsimile or electronic transmission (with verified signature) is received.

B. A facsimile or electronic transmission (with verified signature), when filed, has the same force and effect as the original. If the party fails to comply with the requirements of Paragraph 3 of Subsection C, of this Section, a facsimile filing shall have no force or effect.

C.1. Within five days, exclusive of legal holidays, after the district office or the records management division have received a facsimile transmission, the party filing the document shall forward the following to the district office or records manager:

- a. the original signed document;
- b. the applicable filing fee, if any; and
- c. a transmission fee of \$5.

2. All pleadings filed with the court may be filed by facsimile transmission or electronic transmission (with verified signature) to the assigned facsimile number or electronic address of the district of proper venue.

D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999), amended LR 25:1862 (October 1999), LR 33:654 (April 2007).

§5705. Abandonment

A. A claim may be dismissed at the judge's discretion after contradictory hearing properly noticed by the court for lack of prosecution for the following reasons:

1. where no service of process and/or mediation has occurred within 60 days after the Form LDOL-WC-1008 has been filed. This provision shall not apply if the claim is awaiting action by the workers' compensation court;

2. - 3. ...

4. where a party fails to appear for a properly noticed conference;

5. where an attorney or pro se litigant fails to keep the workers' compensation court apprised of an address change may be considered cause for involuntary dismissal for failure to prosecute when a notice is returned to a party or the workers' compensation court for the reason of an incorrect address and no correction is made to the address for a period of 60 days.

B. - C. ...

D. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999), amended LR 25:1862 (October 1999), LR 33:654 (April 2007).

Subchapter B. Settlement

§5709. Joint Petition Settlements

A.1. ...

2. The procedure for perfecting settlements shall be governed by R.S. 23:1272. A hearing in open court with all

parties present shall be required when one or more parties is not represented by counsel. Appearance by the parties and/or their representative may be waived if all parties are represented by counsel. In special circumstances and in the interest of judicial economy, the judge may allow the unrepresented party to waive his appearance and permit the party to appear by telephone. Appearance by the represented parties and/or their representative may be waived in written form.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999), amended LR 25:1863 (October 1999), LR 33:654 (April 2007).

Chapter 58. Pleadings

Subchapter C. Forms

§5809. Forms

A. The Office of Workers' Compensation Administration shall prepare and adopt such forms for use in matters before the Office of Workers' Compensation Administration as it may deem necessary or advisable. Whenever Office of Workers' Compensation Administration forms are prescribed and are applicable, they shall be used. A photo ready copy of any form may be procured upon request to any District Office, the office of the Director, or www.laworks.net.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:269 (February 1999), amended LR 25:1863 (October 1999), LR 33:654 (April 2007).

§5811. Format of Documents

A. Any pleading or other document submitted to the director or to any judge shall be typed or printed legibly on 8 1/2" x 11" paper and shall bear the name and signature of the person who prepared it, the firm name, if applicable, the complete address including the zip code, an electronic address, if available, the telephone and facsimile number, including the area code and the docket number, if one has been assigned to the claim and the name of the judge assigned to the claim, if available. All attorneys shall note their bar roll number on all documents and correspondence.

B. ...

C. All documents filed into the court record that are notarized shall comply with R.S. 35:12.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:269 (February 1999), amended LR 25:1863 (October 1999), LR 33:654 (April 2007).

Subchapter D. Mediation

§5813. Initial Mediation

A. The district office of proper venue shall set the matter for an initial mediation conference with a mediator only if the claimant/injured employee or his representative submits a Request for Initial Mediation form to the district office within 15 "business" days of filing of a claim. Notice of a scheduled initial mediation may be given by telephone, but shall be confirmed by United States Mail, facsimile transmission or electronic transmission. The notice shall indicate the date, time, and place of the conference. Upon

filing of the LDOL-WC-1008 any party to the claim and/or their representative may request a copy of the Form 1008 filed in the case. No such request shall be denied by an employee of the Office of Workers' Compensation Administration.

B. The purpose of the initial mediation conference shall be to mediate and encourage resolution of the dispute. As such the conference is designed for employees, employers and/or adjustors or claims managers. Within 24 hours of receipt of notice of the initial mediation conference, the employer shall notify his workers' compensation insurer or adjuster, in case of a self-insured, of the date, time and place of the conference.

C. The requested initial mediation conference may be subsequently waived. If waived, all parties must agree and must sign the Waiver of Initial Mediation Conference form. The signed Waiver of Initial Mediation Conference form may be mailed, faxed, or e-mailed to the address, fax number, or e-mail address of the district office where the dispute was filed within 48 hours prior to the date of the initial mediation conference. Non-appearance by a party at an initial mediation will be deemed a waiver of the mediation and the mediator shall immediately issue service of citation to all defendants.

D. The initial mediation conference may be held by telephone if agreed to by all parties to the claim and they are represented by an attorney or authorized claims representative. Notice should be given to the mediator that such agreement has been reached no later than five days prior to the mediation. The defendant must have available at the time of the mediation a facsimile machine to accept service. Telephone mediations shall not be permitted in claims where a party is unrepresented; except in special circumstances or in the interest of justice, the mediator may allow a party to appear by telephone. All parties to a telephone mediation shall provide the mediator with all information required by Subsection E of this Section prior to the scheduled mediation.

E. If available, the parties shall bring or mail to the office prior to the conference two legible copies of the following: LDOL-WC-Form 1007, current medical bills and reports, information on workers' compensation benefits previously paid, wage records, vocational rehabilitation records and any other documents relevant to the issues of the claim. If the employer has failed to timely file a completed 1007, the employer shall be assessed a fine in accordance with LAC 40:I.109. Nothing contained in the Form LDOL WC-1007 shall be considered as an admission of any fact contained therein.

F. No stenographic report shall be taken at the initial mediation conference and no witnesses shall be called. All statements made at the mediation conference shall be privileged and shall not be admissible in any subsequent hearing or trial.

G. Continuances of the mediation conference may be permitted for good cause shown by written request to the mediator no later than three days prior to the conference, unless exigent circumstances exist. The request shall state the reasons the continuance is necessary, that all parties have been notified of the request, and whether all parties agree to the continuance.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:1863 (October 1999), amended LR 33:654 (April 2007).

§5815. Pretrial Mediation

A. A pretrial mediation shall be set not less than 30 days prior to trial. The pretrial mediation cannot be waived and all parties or their legal representatives must attend in person. The court shall provide notice of the date, time and place of the pretrial mediation to all parties at the same time and in the same manner.

B. No stenographic report shall be taken at the pretrial mediation conference and no witnesses shall be called. All statements made at the mediation conference shall be privileged and shall not be admissible in any subsequent hearing or trial.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 33:655 (April 2007).

§5817. Conclusion of Mediation Conference

A. When it becomes apparent during the course of a mediation conference that agreement on all issues cannot be reached, the mediator shall issue a report stating the result of the conference and immediately issue citations to all defendants. The report shall be issued to the parties immediately following the conference or mailed within five days thereof.

B. When it becomes apparent during the course of a mediation conference that agreement on all issues cannot be reached, the mediator shall issue a report stating the result of the conference. If the parties agree, the judge, on his/her own order or the mediator may schedule additional mediation conferences when either deems necessary.

C. ...

D. If any proper party defendant is present or represented at the initial mediation conference, formal citation and service of process shall be made upon that defendant or its representative at that time. If the defendant(s) is participating by telephone, citation shall be waived and service shall be accepted by facsimile. A signed waiver form shall be returned within 24 hours after the conclusion of the mediation by facsimile transmission. Citation and service of process shall be as provided in §5511. The affidavit of the mediator, facsimile confirmation, or waiver of service signed by the defendant or its authorized representative in any subsequent proceeding shall be prima facie evidence that service has been made in accordance with this rule.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:269 (February 1999), amended LR 25:1864 (October 1999), LR 33:655 (April 2007).

§5819. Failure to Attend; Sanctions

A. If any party fails to appear at the pretrial mediation conference after proper notice and without just cause, the judge, upon report from the mediator, may fine the delinquent party an amount not to exceed \$500, which shall be payable to the Kids Chance Scholarship Fund of the Louisiana Bar Foundation. In addition, the judge may assess against the party failing to attend, costs and reasonable attorney's fees incurred by any other party in connection with the conference. The actions provided for in this Section

shall be determined by the judge only after a contradictory hearing properly noticed by the court which shall be held prior to the hearing on the merits of the dispute unless waived upon joint motion of the parties. Appearance by the parties and/or their representative at the penalty hearing may be waived. The judge may entertain such action by telephone conference with all parties participating. Such telephone conference shall be initiated by the party requesting the telephone conference.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:1864 (October 1999), amended LR 33:655 (April 2007).

Subchapter F. Exceptions

§5824. Rule to Show Cause; Time for Filing Memoranda

A. Any party may seek to have any exception heard by filing a rule to show cause.

B. The memorandum in support shall be filed no later than 14 days prior to the hearing. The memorandum in opposition shall be filed no later than 8 days prior to the hearing.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 33:656 (April 2007).

Subchapter G. Motions

§5831. Motion or Rule Day

A. ...

B. The judge may require the parties to submit briefs in connection with any exception, rule, or motion. Briefs should be submitted as provided in §5824. A copy of the brief shall be served upon all counsel of record at the same time and in the same manner as submitted to the court.

C. ...

D. A motion for summary judgment shall be filed no later than 45 days prior to trial unless both parties agree to waive the deadline with the approval of the court.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended LR 25:1865 (October 1999), LR 33:656 (April 2007).

§5835. Ex Parte and Contradictory Motions; Rule to Show Cause Favored

A. Ex parte and contradictory motions shall be governed by Code of Civil Procedure Articles 963 et seq. A contradictory hearing properly noticed by the court with the adverse party may be held unless waived upon joint motion of the parties. Appearance by the parties and/or their representative may be waived in written form. The judge may entertain such motion by telephone conference with all parties participating. Such telephone conference shall be initiated by the party requesting the telephone conference.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended LR 25:1865 (October 1999), LR 33:656 (April 2007).

Chapter 59. Production of Evidence

Subchapter A. General

§5901. Discovery and Attendance of Witnesses

A. The hearing process shall be available to aid any party in pursuit of discovery and to compel attendance of witnesses or production of evidence. The judge on his own motion at any conference may order the production of discoverable material and make any other order facilitating discovery. Copies of discovery documents, including, but not limited to, deposition notices, are to be mailed to all parties and shall not be filed in the record of the proceedings unless attached as an exhibit to a motion or ordered by the judge.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:271 (February 1999), amended LR 25:1865 (October 1999), LR 33:656 (April 2007).

§5905. Protective Orders

A. Upon motion by a party or by a person from whom discovery is sought, and for good cause shown after contradictory hearing properly noticed by the court, the judge may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. The judge may entertain such motion by telephone conference with all necessary parties participating. Such telephone conference shall be initiated by the party requesting the telephone conference.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999), amended LR 25:1865 (October 1999), LR 33:656 (April 2007).

Subchapter B. Subpoena

§5909. Issuance; Service

A. Subpoenas issued in connection with any workers' compensation matter shall be served by the party requesting issuance of the subpoena, and may be served by certified mail return receipt requested or any other manner provided in §5511. Proof of service shall be the responsibility of the party requesting the subpoena. Once issued and served, a subpoena may be canceled by the requesting party only after written notice to the opposing side. It shall be the responsibility of the requesting party to provide written notification of cancellation to all opposing parties as well as the person under subpoena. It shall be the responsibility of the parties to copy each other on the subpoenas they issue.

B. In order to be enforceable, subpoenas for hearing shall be served seven days prior to the scheduled hearing date; subpoenas to compel attendance of medical experts shall be served 10 days prior to hearing. Subpoenas for hearing may be issued after expiration of these time limits only by leave of court for good cause shown or upon written consent of all parties.

C. Written request for unemployment records must be made to the workers' compensation court at least seven days prior to the scheduled hearing at which the documents sought are to be submitted.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999), amended LR 25:1866 (October 1999), LR 33:656 (April 2007).

Subchapter D. Depositions

§5927. Expert Witness Fee

A. For just cause shown, the workers' compensation judge may set a reasonable witness fee for expert testimony.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 33:657 (April 2007).

Subchapter F. Production of Documents

§5933. Production of Documents; General; Medical Evidence

A. ...

B. Objection to medical evidence shall be as provided in R.S. 23:1122. When a timely objection is received, the judge may set a hearing on the motion, or rule on the matter at the trial on the merits. The judge further has the discretion to order, after a contradictory hearing properly noticed by the court, a deposition of the doctor if necessary to clarify a report or to obtain additional information, during the discovery period or at the trial on the merits.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999), amended LR 25:1866 (October 1999), LR 33:657 (April 2007).

Subchapter I. Motion to Compel

§5955. Motion for Order Compelling Discovery

A. ...

B. Prior to filing a motion to compel discovery, a party shall comply with Rule 10.1 of the Rules for Louisiana District Courts adopted by the Louisiana Supreme Court.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended LR 25:1867 (October 1999), LR 33:657 (April 2007).

Subchapter J. Sanctions

§5961. Refusal to Obey Subpoena

A. When a person who, without reasonable excuse, fails to obey a subpoena, the judge may proceed with contempt proceedings as provided in R.S. 23:1310.7.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999), amended LR 25:1867 (October 1999), LR 33:657 (April 2007).

§5963. Failure to Comply with Order Compelling Discovery

A. Failure to comply with order compelling discovery shall be governed by Code of Civil Procedure Article 1471. In addition, the judge may proceed with contempt proceedings as provided in R.S. 23:1310.7.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR

25:276 (February 1999), amended LR 25:1867 (October 1999), LR 33:657 (April 2007).

Chapter 60. Pretrial Procedure

§6001. Scheduling Conferences

A. Within 60 days following receipt of the answer a scheduling conference for the purpose of setting pretrial deadlines shall be held by telephone.

B. Issues to be considered and determined at the scheduling conference may include:

1. - 3. ...

4. scheduling of the pretrial conference and the scheduling of a pretrial mediation conference;

5. ...

6. the need for and scheduling of a pretrial conference;

7. such other matters as may aid in the disposition of the action.

C. ...

D. The judge in his discretion may require a pretrial conference to be held by telephone.

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:1867 (October 1999), amended LR 33:657 (April 2007).

§6003. Conferences or Hearings by Telephone

A. All conferences, except the pre-trial mediation, or hearings may be held by telephone. Where there are more than two attorneys participating in the conference, it shall be conducted by telephone conferencing initiated by the counsel for the employer or insurer.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999), amended LR 25:1868 (October 1999), LR 33:657 (April 2007).

§6005. Pretrial Conference

A. When requested by the court, each party to the dispute shall file a pretrial statement with the appropriate district office within the time frame designated by the court.

B. ...

C. The pretrial conference will be held by telephone, unless in the judge's discretion, attendance at the conference is necessary.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended LR 25:1868 (October 1999), LR 33:657 (April 2007).

§6007. Pretrial Order

A. - A.3 ...

4. a list and brief description of all exhibits to be offered at trial; Exhibits to be used for impeachment or rebuttal need not be included in the list. Proposed stipulations as to exhibit authenticity and/or admissibility shall be noted in the exhibit list;

5. a list of all witnesses to be called at trial. The list shall include a short statement as to the nature but not the content of their testimony, and whether the testimony will be live or by deposition. Except for the witnesses listed, no other witnesses may be called to testify except for good

cause shown. This requirement shall not apply to impeachment and rebuttal witnesses;

6. outstanding discovery and depositions to be taken.

B. Amendments to the pretrial statement shall only be by written motion and permitted only for good cause shown. No new issues shall be raised except by written order of the judge for good cause or upon mutual agreement of the parties.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended LR 25:1868 (October 1999), LR 33:657 (April 2007).

§6009. Pretrial Mediation

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended LR 25:1868 (October 1999), repealed LR 33:658 (April 2007).

Chapter 61. Hearings

Subchapter A. Expedited Hearings

§6101. Examination of an Injured Employee

A. The examination of an injured employee shall be governed by R.S. 23:1124.1.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:1868 (October 1999), amended LR 33:658 (April 2007).

Subchapter B. Continuance

§6103. General

A. - C. ...

D.1. If all parties are represented by counsel and the motion is uncontested, the moving party shall certify to the court that he has spoken to opposing counsel, that no opposition exists and that all witnesses have been timely notified of the continuance. The uncontested motion shall be granted.

2. If any of the parties are unrepresented, the uncontested motion may be granted if there are good grounds therefore and if the workers' compensation judge believes it is in the best interest of the parties.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended LR 25:1868 (October 1999), LR 33:658 (April 2007).

Chapter 62. Trial

Subchapter A. Trial Procedure

§6201. General

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999), amended LR 25:1869 (October 1999), repealed LR 33:658 (April 2007).

§6209. Testimony of Medical Personnel

A. ...

1. certified medical records;

2. - 4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999), amended LR 25:1869 (October 1999), LR 33:658 (April 2007).

Subchapter B. Dismissal

§6211. Dismissal

A. Except as provided in §5705, dismissals shall be governed by Code of Civil Procedure Articles 1671 et seq.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999), amended LR 25:1869 (October 1999), LR 33:658 (April 2007).

Chapter 63. Judgments

Subchapter A. General

§6301. Submission of Evidence; Submission for Judgment/Decision; Post Hearing Briefs

A. The parties shall file into the record all evidence at the time of trial or hearing unless the court, for good cause shown, grants an extension.

B. A case or other matter shall be considered as having been fully submitted for decision immediately upon the conclusion of trial or hearing or final submission of all evidence or post-trial/hearing briefs, whichever occurs latest.

C. Whenever, the judge allows or orders post-trial/hearing briefs, the parties shall be allowed a maximum of 15 working days from the conclusion of the trial or final submission of all evidence, whichever occurs latest, to file the briefs.

D. The brief must be received in the district office either through the United States Postal Service, facsimile transmission, or electronic transmission (with verified signature) within the delays provided and without benefit of the use of the postmark to meet the deadline.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended LR 25:1869 (October 1999), LR 33:658 (April 2007).

§6303. Completion of Trial; Pronouncement of Judgment; Time for Judgments or Orders; Written Reasons

A. The procedures for completion of trial and pronouncement of judgment shall be governed by R.S. 23:1310.5.A.(1) and 1201.3.A. All such orders, decisions, or awards shall be rendered no later than 45 calendar days after conclusion of trial, submission of all evidence or filing of post-trial/hearing briefs, whichever occurs later.

B. Written reasons shall only be rendered if requested in written form by any party to the claim within 10 days of the signing of the judgment. The written reasons shall be issued by the judge not later than 45 calendar days following the request.

C. After the submission of all evidence oral rulings may be issued from the bench immediately after the trial or subsequent to the trial. In either case, the oral ruling shall be made by recitation of the reasons for judgment in open court and capable of being transcribed from the record of the proceeding. The transcript of the oral reasons for judgment may be considered the written reasons for judgment.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended LR 25:1869 (October 1999), LR 33:658 (April 2007).

Subchapter C. Modification

§6311. General

A. The modification of an award shall be governed by R.S. 23:1310.8(A)(1), (B) and (F).

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended LR 25:1870 (October 1999), LR 33:659 (April 2007).

§6315. Request for Modification

A. Any party to the claim may apply for modification pursuant to §6311. If the original decision or award was made by a district court judge, the party seeking the modification shall furnish the workers' compensation judge with the appropriate evidence and documents from the district proceedings.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended LR 25:1870 (October 1999), LR 33:659 (April 2007).

§6317. Exception

A. A motion for new trial shall be governed by Code of Civil Procedure Articles 1971 et seq.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended LR 25:1870 (October 1999), LR 33:659 (April 2007).

Chapter 65. Special Disputes

Subchapter A. Attorney Fees

§6501. Disputed Attorney Fees

A. When a dispute arises among several attorneys as to the identity of claimant's counsel of record, or when several successive attorneys lay claim to a fee in the same case, the judge shall decide the issues raised and allocate the fee allowed in accordance with Rule 1.5 of the Rules of Professional Conduct of the Louisiana Supreme Court.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:280 (February 1999), amended LR 25:1870 (October 1999), LR 33:659 (April 2007).

Subchapter B. Social Security Offset

§6507. Offset

A. A request for offsets pursuant to R.S. 23:1225(C) made in connection with a disputed claim shall be made by filing Form LDOL-WC-1008 or by responsive pleading. An order shall be issued recognizing the entitlement to the offset for social security benefits from the date of judicial demand, and setting the amount of the offset after a determination of the character of the disability, the right to the offset, and calculation of the offset. A contradictory hearing properly noticed by the court may be set by the judge for this determination. Notice shall be provided to the claimant or

his representative prior to issuance of the order. The order shall be served by certified mail upon all parties and the Social Security Administration. Such offsets may be taken upon receipt of proof of service of the order upon the Social Security Administration by the Office of Workers' Compensation Administration. Such offsets shall not be taken unless the social security offset has been removed.

B. A request for offsets pursuant to R.S. 23:1225(A) made in connection with a claim not in dispute may be made by motion on form LDOL-WC-1005(A) or by letter, filed in the appropriate district office. When properly filed, the motion or letter requesting an offset may be granted ex parte from date of filing. Such offsets shall not be taken unless the social security offset has been removed. No fee shall be charged in connection with a request made under this Subsection.

C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended LR 25:1871 (October 1999), LR 33:659 (April 2007).

Subchapter C. Financial and Compliance Hearings

§6509. Financial and Compliance Hearings

A. An initial mediation conference shall be held within 15 days of the filing of an appeal for financial and compliance matters.

B. If a resolution is not reached, a hearing on the appeal held pursuant to R.S. 23:1171 shall be held within 15 days of the conclusion of the initial mediation conference, and shall be conducted in accordance with the provisions of the Administrative Procedure Act.

C. Suspensive appeals of a determination of the financial and compliance officer will not be entertained.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended LR 25:1871 (October 1999), LR 33:659 (April 2007).

Chapter 66. Miscellaneous

Subchapter A. General

§6607. Posting of Docket

A. The clerk of the district office shall keep a docket upon which shall be entered the docket reference number of all matters set for mediation, hearing, or trial. The docket shall be posted on the Department of Labor website and in a conspicuous location of the district office on the first work day of each week for that week.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended LR 25:1871 (October 1999), LR 33:659 (April 2007).

Subchapter B. Costs

§6611. Medical Costs

A. Except as provided in R.S. 23:1034.2(E), the determination of all medical reimbursement shall be based upon the reimbursement schedule in effect at the time the services are rendered. Every attempt to resolve disputes over medical reimbursement shall be made by applying said schedule(s).

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended LR 25:1872 (October 1999), LR 33:659 (April 2007).

Subchapter C. Waiver of Costs for Indigent Party

§6613. General

A. Waiver of costs for indigent party shall be governed by Code of Civil Procedure Articles 5181 et seq. The request for waiver of costs shall be made on WC Form No. 1027.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended LR 25:1872 (October 1999), LR 33:660 (April 2007).

John Warner Smith
Secretary of Labor

0704#058

RULE

Department of Natural Resources Office of Conservation

Statewide Order No. 29-B—Procedures for Hearings and the Submission and Approval of Plans for the Remediation of E and P Sites (LAC 43:XIX.Chapter 6)

The Louisiana Office of Conservation has amended LAC 43:XIX.Subpart 1 (Statewide Order No. 29-B) to include a new Chapter, i.e. LAC 43:XIX.Chapter 6, in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq. and pursuant to power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Sections 30:4 et seq. This amendment will standardize regulatory procedures for hearings for exploration and production site evaluation or remediation plans submitted for Office of Conservation approval subject to the statutory provisions of Act 312 of 2006 under R.S. 30:29.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 6. Procedures for Hearings and the Submission and Approval of Plans for the Remediation of E and P Sites in Accordance with LSA-R.S. 30:29

§601. Authority

A. These rules and regulations are promulgated by the commissioner of conservation pursuant to the Administrative Procedure Act as contemplated in R.S. 30:4 and 30:29.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:660 (April 2007).

§603. Definitions

A. The words defined herein shall have the following meanings when used in these rules. All other words so used and not herein defined shall have their usual meanings unless specially defined in Title 30 of Louisiana Revised Statutes of 1950.

Affected Tract—any real property known or reasonably believed to have suffered environmental damage as defined in R.S. 30:29.

Date—the postmarked date of a letter or the transmittal date of a telegraphic or wireless communication.

Environmental Damage—any actual or potential impact, damage, or injury to environmental media caused by contamination resulting from activities associated with oilfield sites or exploration and production sites.

Environmental Media—includes, but is not limited to, soil, surface water, ground water, or sediment, or as defined in R.S. 30:29.

Evaluation or Remediation—includes, but is not limited to, investigation, testing, monitoring, containment, prevention, or abatement.

Feasible Plan—the most reasonable plan which addresses environmental damage in conformity with the requirement of Louisiana Constitution Article IX, Section 1 to protect the environment, public health, safety and welfare, and is in compliance with the specific relevant and applicable standards and regulations promulgated by a state agency in accordance with the Administrative Procedure Act in effect at the time of clean-up to remediate contamination resulting from oilfield or exploration and production operations or waste.

Final Submission—the last day on which any litigation party may submit a plan, comment, or response to a plan as provided by the orders of the court.

Litigation Party—any party to a judicial proceeding subject to R.S. 30:29 and who is not a responsible party as defined herein.

Oilfield Site or Exploration and Production (E&P) Site—any tract of land or any portion thereof on which oil or gas exploration, development, or production activities have occurred, including wells, equipment, tanks, flow lines or impoundments used for the purposes of the drilling, workover, production, primary separation, disposal, transportation or storage of E&P wastes, crude oil and natural gas processing, transportation or storage of a common production stream of crude oil, natural gas, coal seam natural gas, or geothermal energy prior to a custody transfer or a sales point. In general, this definition would apply to all exploration and production operations located on the same lease, unit or field.

Party—responsible parties and litigation parties as defined herein.

Plan—any submittal made in accordance with R.S. 30:29 and these rules for the evaluation or remediation of an affected tract as defined herein.

Responsible Party—the party or parties admitting responsibility for environmental damage or determined by the court to be legally responsible for environmental damage pursuant to R.S. 30:29.

Represented Party—any responsible party or litigation party who is represented by an attorney in the court matter that has been referred pursuant to R.S. 30:29 or before the Office of Conservation.

Technical Data—all basic factual information available that may be used to determine the levels of contamination and the vertical and horizontal extent of the contamination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:660 (April 2007).

§605. Applicability

A. These rules of procedure shall be applied to Office of Conservation hearings and the submission and approval of plans pursuant to R.S. 30:29 (Act 312 of 2006). The posting and publication of a copy of the notice of hearing shall be accomplished as soon as practicable after such notice has been issued by the commissioner.

B. These rules of procedure shall in no way alter or change the right of any interested person, as provided in Paragraph F, Section 6 of Chapter 1 of Title 30 of the Louisiana Revised Statutes of 1950, to have the Commissioner of Conservation call a hearing for the purpose of taking action in respect to a matter within the jurisdiction of the commissioner, nor the requirement that the commissioner, upon receiving the request, promptly call a hearing. In addition, these rules shall in no way alter any other rights or claims, contractual or otherwise, which any person has or may have except as provided in R.S. 30:29 (Act 312 of 2006).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:661 (April 2007).

§607. Commissioner's Conference

A. The general purpose of the Commissioner's Conference shall be to set a hearing date and to set deadlines for the release of technical data, hearing notices, filing of all plans, witness and exhibit lists, and any other preliminary matters necessary and appropriate to the hearing not otherwise addressed by these rules.

B. As soon as practicable after the final submission, the commissioner shall schedule a Commissioner's Conference and notify each party of the date and time of the conference.

C. Notice of the Commissioner's Conference shall be mailed to each responsible party and litigation party or their representatives stating the time and place of the conference.

D. Each responsible party or their representative is required to participate in the Commissioner's Conference.

E. Any litigation party may participate in the Commissioner's Conference.

F. The commissioner, or hearing officer appointed by the commissioner, shall have the right to call any other pre-hearing conferences at any time prior to the hearing, if in his opinion such a conference would resolve or narrow the issues in controversy or would assist in the conduct of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:661 (April 2007).

§609. General Requirements of Plans

A. Plans shall be filed within the time limit set by the court and shall be filed with the commissioner. A copy shall be mailed or delivered to each party. Any party submitting a plan shall submit at least three hard copies of the technical data and plan, as well as an acceptable electronic copy to the commissioner. In addition to outlining the purpose thereof, plans shall include the information required by §615 and shall include or be accompanied by the following:

1. a statement that a reasonable effort has been made to obtain a complete list of parties;

2. a statement that a Commissioner's Conference has or has not been held, and if held, a list of the parties in attendance;

3. a plat prepared in accordance with all applicable memoranda, with any technical data labeled thereon and the other items required by statute or by the commissioner;

4. a statement that the plan is to evaluate or remediate the environmental damage in accordance with the requirements of the applicable rules and regulations of the Office of Conservation or, if the plan seeks to apply rules and regulations of another Louisiana state agency, a citation to the specific rules and regulations of that state agency.

B. If a proposed plan is revised by any party, the revised plan shall be submitted as amended to the Commissioner of Conservation and forwarded to the parties in the same manner as the original plan with a revised plat.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:661 (April 2007).

§611. Specific Requirements of Plans

A. The Commissioner of Conservation shall consider only those plans filed in a timely manner and in accordance with these rules and orders of the court.

B. Except as provided in §611.F, each plan or submittal of any Responsible Party or any Litigation Party shall be evaluated in accordance with Statewide Order 29-B. Sampling and testing shall be performed in accordance with Statewide Order 29-B. Each plan shall fully delineate the vertical and horizontal extent of the environmental damage.

C. All Statewide Order 29-B sampling shall be in accordance with applicable guidelines as provided in the latest revision of the Department of Natural Resources laboratory procedures manual titled "Laboratory Procedures for Analysis of Exploration and Production Waste" and shall contain a plat showing the physical location from which such samples were obtained, provided that any sampling performed prior to the adoption of this Chapter may be considered by the commissioner in approving or structuring a plan if the commissioner determines that such sampling was conducted in accordance with a scientifically reliable methodology.

1. In addition, information as to the identity of the person or company taking the samples, a copy of the certification of such person or company taking such samples (if applicable), and documentation showing the method of sampling, the chain of custody and all other such relevant information shall be included.

D. All Statewide Order 29-B sample analyses shall be in accordance with applicable regulatory requirements and the latest revision of the Department of Natural Resources

laboratory procedures manual titled "Laboratory Procedures for Analysis of Exploration and Production Waste" and shall be performed by a DEQ LELAP accredited laboratory holding current accreditation for each parameter and corresponding test method used, provided that any sample analyses performed prior to the adoption of this Chapter may be considered by the commissioner in approving or structuring a plan if the commissioner determines that such sample analyses was conducted in accordance with a scientifically reliable methodology.

1. All Statewide Order 29-B test results shall also contain a report certified by the testing laboratory including, at a minimum, a description of the testing process or methodology, by whom such testing was conducted, a copy of the laboratory's accreditation to conduct the described test, and all applicable required quality assurance/quality control data.

E. Each plan shall contain a separate section analyzing the sampling and testing as set forth in C and D above by comparison with the applicable Statewide Order 29-B criteria.

F. Any plan submitted by any party, or approved or structured by the commissioner, shall comply with the standards set forth in Statewide Order 29-B. Any party that seeks an exception under the provisions of §319 of Statewide Order 29-B shall submit:

1. a plan that complies with all the provisions of Statewide Order 29-B, exclusive of §319; and

2. a separate plan that includes:

- sufficient proof that there is good cause to grant an exception or exceptions sought under §319;
- sufficient proof showing that the exception or exceptions sought under §319 do not endanger USDW's; and
- a specific citation to the Louisiana rules, regulations or statutes sought to be applied in lieu of Statewide Order 29-B.

G. All plans shall also contain:

1. a chronological work schedule or proposal for a chronological work schedule detailing all activities necessary for its implementation and an estimated cost for each item;

2. a comprehensive itemized cost basis for each item listed in Paragraph G.1;

3. a certification of review and approval by signature from an attorney licensed to practice law in Louisiana, or an attorney from another jurisdiction who has been authorized to appear before the commissioner, worded as follows:

"I, _____, have reviewed the information submitted herewith and hereby attest that to the best of my knowledge, information and belief it is true and correct and is based on scientific data that has been obtained in a manner compliant with all applicable regulations."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:661 (April 2007)

§613. General Requirements of Comments and Responses

A. Comments or responses shall be filed within the time limit set by the court and shall be filed with the commissioner and the court with a copy to each party. Any party filing a comment or response shall submit to the Commissioner of Conservation at least three hard copies of the comment or response and any data utilized as provided

in §617, as well as an acceptable electronic copy to the commissioner. In addition to outlining the purpose thereof, the comments or responses shall, in addition to the information required by §615 include or be accompanied by the following:

1. a statement that a reasonable effort has been made to obtain a complete list of parties;

2. a plat prepared in accordance with all applicable memoranda, with any technical data labeled thereon and the other items required by statute or regulation or by the commissioner, if different from the plan on which the comments or responses are made;

3. a statement that the comment or response is to evaluate or remediate the environmental damage in accordance with the requirements of the applicable rules and regulations of the Office of Conservation or, if the comment or response seeks to apply rules and regulations of another Louisiana state agency, a citation to the specific rules and regulations of that state agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:662 (April 2007).

§615. Notice of Filing a Plan, Comment or Response

A. Any litigation party filing a plan, comment or response pursuant to R.S. 30:29 shall also mail or deliver a copy to each litigation party or their representatives. If a representative represents more than one party, only one copy need be sent, unless otherwise ordered by the court.

B. Each plan, comment or response shall include a list of all parties to whom it is being provided and their addresses and other contact information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:662 (April 2007).

§617. Release of Technical Data

A. Technical data regarding any plan, comment or response shall be provided to each party at the cost of the party sending such technical data at the time the plan, comment or response is filed with the commissioner and the court.

B. If the plan, comment or response utilizes data from another previously or concurrently filed plan, comment or response, a specific reference to the location of the data in those other filings will suffice to meet the requirements of this rule.

C. Reference to the source or sources, including commercial outlets, from whom such technical data can be obtained shall be included in the documentation required by these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:662 (April 2007).

§619. Revisions to Plans, Comments or Responses Thereto

A. If, after any plan, comment or response is filed, such plan, comment or response is revised, the party revising the plan, comment or response shall promptly notify the commissioner and all parties to whom the plan, comment or

response was sent, of the revision. The revising party shall furnish the commissioner at least three hard copies and one acceptable electronic copy of the data and revised plan, comment or response, and any technical data used to support the revision. The revising party shall also provide the court and all parties a copy of any revised plan, comment or response and any technical data used to support the revision. The revising party shall, if requested by the commissioner, participate in an additional Commissioner's Conference to discuss the revised plan, comment or response prior to the hearing. No revised plan, comment or response may be considered at the hearing unless notice of the revision has been sent to the commissioner, the court and to all parties to whom the legal notice is required at least ten days prior to the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:662 (April 2007).

§621. Mandatory Disclosures and New Evidence

A. All technical data available to any party filing a plan, comment or response shall be disclosed to all parties on or before the date such plan, comment or response is filed with the commissioner, regardless of whether such technical data is used or referenced in such plan, comment or response.

B. If new technical data becomes available to any party after proceedings have been initiated hereunder, such technical data shall be made available immediately to all parties by notice of its availability and by release in accordance with §617. Such technical data may be used by any party at the hearing and may be the basis for revision of plans, comments or responses previously made by any party. Subject to the time limitations set forth in R.S. 30:29, the commissioner in his discretion may determine that additional time should be afforded for consideration of new technical data. The commissioner in his discretion may also establish a time limit beyond which new technical data may not be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:663 (April 2007).

§623. Hearing Officer

A. The Commissioner of Conservation may designate a licensed Louisiana attorney to act as hearing officer in any hearing or at any conferences under these rules.

B. The duties of the hearing officer include, but are not limited to, conducting any Commissioner's Conference provided under these rules, ruling on evidentiary or procedural matters, maintaining order at the hearings, and generally ensuring that an accurate record is made of the proceedings under these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:663 (April 2007).

§625. Costs

A. At least 15 days before the scheduled hearing, the Commissioner of Conservation shall provide the court and litigation parties a schedule of its estimated costs for the review and evaluation of any plans, comments or responses,

hearing costs as well as any other costs the Commissioner of Conservation is expected to incur. The responsible party shall deposit sufficient funds in the registry of the court, or, with the approval of the court, may submit such funds directly to the Commissioner of Conservation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:663 (April 2007).

§627. Plan Approvals

A. Within 60 days of the conclusion of the hearing, or within such longer time as the court allows, the Commissioner of Conservation shall either approve a submitted plan as the most feasible plan or structure a plan which, based on the evidence submitted on the record, the commissioner determines to be the most feasible plan and shall further issue written reasons for the plan he approves or structures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:663 (April 2007).

§629. Rehearing

A. Requests for rehearing by any party shall not be considered by the Commissioner of Conservation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:663 (April 2007).

§631. Timeliness of Filings

A. All notices and filings provided for herein shall be presumed to be timely when the postmark date or actual date of receipt, if hand delivered, of the copy received by the commissioner complies with appropriate delays herein provided. Copies required to be provided to the parties shall be deposited on the same date in the United States mail, properly stamped and addressed, or, if telegraphic or wireless communication is used, dispatched on that date by the transmitting party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:663 (April 2007).

§633. Notice of Hearings and Continued Hearings

A. In addition to the publication of the legal notice by the commissioner in the official state journal, the responsible party or parties shall provide for the posting of a copy of the legal notice of the hearing and a plat or plats in a prominent place in the area affected, and shall cause to be published at least 15 days before the hearing a copy of the legal notice in a newspaper published in the vicinity or general area of the affected tract or tracts. The responsible party or parties shall mail copies of the legal notice to all parties and a copy of the plat or plats shall be included with the legal notice, if said parties have not already been furnished same. Evidence to establish posting, publishing and mailing shall be submitted at the hearing.

B. When a hearing is opened and continued, the notice given for the original hearing shall be applicable to the continued hearing, if the hearing officer at the time of

granting the continuance designates the new time, date and place of the continued hearing. In all other instances of a continued hearing, the responsible party or parties shall at least 15 days before the hearing provide notice of the continued hearing by posting such notice in a prominent place in the area affected, by publishing such notice in a newspaper published in the vicinity or general area of the affected tract or tracts and by mailing such notice to all parties.

C. In no case shall a hearing be held more than 60 days from the date of the final submission without the express approval of the trial court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:663 (April 2007).

§635. Rules of Hearing Conduct and Procedure

A. The responsible party or parties shall first present the entire scientific, technical or other bases of their plan or plan(s).

B. Any litigation party or parties who have filed a comment in support of any responsible party's plan or plans shall then present the entire scientific, technical or other bases for their support and shall do so immediately after the responsible party or parties have completed their presentations.

C. Any litigation party who has submitted a plan or plans shall then present the entire scientific, technical or other bases thereof. If any litigation party has filed a comment in opposition to any responsible party's plan or plans, such party shall then present their entire scientific, technical or other bases for such opposition. Any litigation party who has filed a comment in support of a litigation party's plan shall then present the entire scientific, technical or other bases for such support.

D. Each responsible party shall then have the opportunity to provide rebuttal evidence in response to the opposition to its plan or plans, or in response to any plan offered by any litigation party.

E. The litigation party filing the plan shall then have the opportunity to provide rebuttal evidence in response to the opposition to its plan.

F. All rebuttal scientific, technical or other testimony, shall be strictly limited to a refutation of the matters covered by the opponents.

G. Any witness shall be subject to examination by the commissioner or any member of his staff and by no more than two representatives of a party. Cross-examination shall be conducted in accordance with the following guidelines.

1. Cross-examination shall be limited to questions concerning the testimony and exhibits presented by the witness, testimony and exhibits presented by any other witness and the credibility of the witness.

2. Matters peculiarly within the knowledge of the cross-examiner or his witnesses shall be presented by them on direct examination, and there shall be no attempt to establish such matters by cross-examination.

3. Cross-examination shall be conducted in a polite and courteous manner without reference to personalities of the witness or the party represented by the witness.

H. The litigation parties and responsible parties may make opening statements. The litigation parties and responsible parties may also make closing statements concerning their positions, but such statements shall not include technical matters which have not been presented by sworn testimony. The responsible parties shall have the right to make the last closing statement. If there is more than one litigation party or responsible party, the parties may agree on the sequence in which opening or closing statements are presented, or the commissioner or hearing officer shall determine the sequence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:664 (April 2007).

§637. Penalty for Non-Compliance

A. Failure to comply with the provisions of or the spirit of these rules of procedure may prevent plan, comment or response from being advertised or heard, or may prevent a party from presenting evidence at the hearing, but any approval or structure of a plan issued by the commissioner shall not be invalid by operation of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:664 (April 2007).

§639. Time of Commencement

A. The procedures set forth in these rules shall commence upon final submission date as provided in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:664 (April 2007).

§641. Coverage of Rules

A. Nothing contained in these rules shall in any way limit the authority of the commissioner of conservation to independently initiate any civil or administrative proceeding or to initiate any civil enforcement action.

B. Nothing in these rules shall in any way limit the Office of Conservation from independently responding to an inquiry or request by a landowner or any other person for investigation of alleged environmental damage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:664 (April 2007).

James H. Welsh
Commissioner

0704#066

RULE

**Department of Public Safety and Corrections
Board of Private Investigator Examiners**

Fees (LAC 46:LVII.517)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Department of Public Safety and Corrections, Board of Private Investigator Examiners, has amended LAC 46:LVII.517, Fees.

Title 46

**PROFFESIONAL AND OCCUPATIONAL
STANDARDS**

Part LVII. Private Investigator Examiners

**Chapter 5. Application, Licensing, Training,
Registration and Fees**

§517. Fees

A. In addition to the fees provided by R.S. 37:3516, the following schedule of fees shall be assessed:

1. for licensee or any business entity employing more than one investigator:
 - a. - c. ...
 - d. transfer of agent \$ 50;
2. for private investigator employed by a company or corporation, or apprentice investigator:
 - a. - d. ...
 - e. transfer of agency \$ 50;
3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1335 (October 1993), amended LR 33:665 (April 2007).

Douglas J. Chauvin
Chairman

0704#071

RULE

**Department of Public Safety and Corrections
Corrections Services**

Community Resource Centers (LAC 22:I.340)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Louisiana Department of Public Safety and Corrections, Corrections Services, has adopted §340.

The purpose of this regulation is to establish the secretary's policy regarding the enactment of Community Resource Centers for eligible inmates to participate in emergency disaster relief efforts and to provide procedures regarding housing for those inmates who participate in such relief efforts.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

**Chapter 3. Adult and Juvenile Services
Subchapter A. General**

§340. Community Resource Centers

A. Purpose. To establish the secretary's policy regarding the enactment of Community Resource Centers for eligible inmates to participate in emergency disaster relief efforts and to provide procedures regarding housing for those inmates who participate in such relief efforts.

B. Applicability. Chief of operations, undersecretary, assistant secretary, regional wardens, wardens and the Director of Probation and Parole. Each unit head shall ensure that appropriate procedures are in place to comply with the provisions of this regulation.

C. Definitions

Advance Support Team—advance support teams secure appropriate housing, coordinate the delivery of necessary supplies, and address and/or assess current situations and conditions, as well as assess future needs. The team shall consist of a security supervisor and maintenance staff member. Other staff and/or inmates may be included as deemed necessary by the chief of operations, regional wardens and/or the warden.

Inmate Crews—inmate crews may be composed of any inmates that are classified as minimum custody at their assigned housing unit except for inmates prohibited from participation as provided for in Paragraph E.1. Eligible inmates are subject to placement on the crews regardless of their usual work assignment. Additionally, inmates are required to be on a regular duty status and be medically capable of performing emergency disaster relief work.

Minimum Custody—generally, assignment of an inmate to a dormitory housing area. Movement outside of a secure perimeter is usually authorized without armed supervision or restraint. Institutional procedure governs the level of staff supervision when outside the secure perimeter, as well as internal movement controls.

D. Policy. It is the secretary's policy to establish Community Resource Centers for inmates to remediate the damage done following a natural disaster or emergency. The use of inmate labor will augment governmental personnel, private sector firms and community volunteers conducting remediation activities during the period immediately after such disaster. Inmate labor will not replace existing employees, be utilized on a project or job involved in a labor dispute, or supplant post disaster remediation activities that may otherwise be performed under contract by private sector firms employed by an affected individual or governmental entity.

E. Procedures

1. Inmates convicted of a crime of violence or convicted of a sex offense shall not be eligible to participate in the Community Resource Centers program.

2. Each unit shall determine the approximate number of inmates available for assignment to an inmate crew and develop appropriate inmate and staffing rosters. Information concerning the number of crews available from each facility shall be forwarded each May to the chief of operations for inclusion in the Incident Management Center (IMC) Resource Manual.

3. Inmate crews shall not exceed 10 inmates for each correctional officer supervising them.

4. In accordance with the Louisiana Homeland Security and Emergency Assistance and Disaster Act, after the governor has declared a disaster or emergency pursuant to executive order or proclamation, Community Resource Centers may be established in the parish where the work will be performed.

5. At the direction of the secretary or designee, the IMC will contact the appropriate warden with information relative to disaster relief needs of the affected area and/or the necessity of establishing a Community Resource Center.

6. Upon receiving the instructions from the IMC, the warden will activate the advance support team, other necessary personnel, and inmate crews.

7. Inmate crews that are deployed to a community or area more than two hours travel time from the unit or for an extended period may require housing in that area. The advance support teams will coordinate with the parish Office of Emergency Preparedness (OEP), local law enforcement, and district probation and parole office for accessing available housing resources.

8. The warden shall ensure that supervising staff of each inmate crew receive documentation for each inmate that includes an identification picture and master prison record sheet. In addition he will receive any medications that the inmates may have prescribed to them.

9. The wardens shall ensure that logs of inmate crew activities are maintained.

10. Wardens shall be responsible for providing transportation for each inmate crew. In addition, each unit shall be responsible for providing their own communications equipment such as 800 radios, cell and/or satellite telephones.

11. A unit may be required to make available an EMT or nurse to provide emergency medical care to the inmate crews in the area.

12. The IMC may coordinate with the Division of Probation and Parole for any additional security support needed at a Community Resource Center.

13. Inmate crew remediation assignments shall be coordinated by unit personnel on site through the state and/or local OEP. This information shall be forwarded to the unit, the IMC, and local law enforcement.

14. The rank structure for supervision of the Community Resource Centers shall be determined by the appropriate regional warden.

15. If the situation or conditions dictate, a centralized supply location or warehouse may be established to support inmate work crews.

16. Inmates participating in the Community Resource Centers program shall be eligible to earn 30 days of good time credit in addition to that otherwise authorized by law for every 30 days of service in this program. Therefore, each unit shall maintain records of the inmates assigned to the

work crews and the number of days worked. These records shall be forwarded to the records office at the facility to determine the amount of good time to be awarded to the inmate.

AUTHORITY NOTE: Promulgated by the Department of Public Safety and Corrections in accordance with R.S. 15:833.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:665 (April 2007).

Richard L. Stalder
Secretary

0704#008

RULE

Department of Public Safety and Corrections Corrections Services

Judicial Agency Residential Referral Facilities (LAC 22:I.Chapter 13)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and R.S. 40:2851 and 2852, the Louisiana Department of Public Safety and Corrections, Corrections Services, has adopted Chapter 13, Judicial Agency Referral Residential Facilities.

The purpose of the promulgation of the aforementioned regulation is to establish the secretary's rules relative to the housing or temporary residence of individuals who have been arrested for the commission of a crime and are referred by any judicial agency to an approved residential facility and to provide for the construction, standards of operation and services provided by such residential facilities.

Title 22

CORRECTIONS

Part I. Corrections

Chapter 13. Residential Referral

Subchapter A. General Provisions

§1301. Judicial Agency Referral Residential Facilities

A. Purpose. To establish the secretary's rules relative to the housing or temporary residence of individuals who have been arrested for the commission of a crime and are referred by any judicial agency to an approved residential facility and to provide for the construction, standards of operation and services provided by such residential facilities.

B. Applicability. Chief of operations, undersecretary, assistant secretary and administrators of housing or temporary residential facilities.

C. Policy. No facility not otherwise required to be licensed by Department of Health and Hospitals or Department of Social Services shall provide housing or temporary residence to any individual referred by a judicial agency and no judicial agency shall refer any individual to a facility providing housing or temporary residence until the facility complies with rules as outlined in this regulation.

D. Procedure

1. The facility shall comply with all building codes, local zoning requirements and ordinances with regard to permits and licenses.

2. The State Fire Marshal and State Health Officer will determine rated bed capacity and approval for occupancy.

3. The facility shall comply with the Judicial Agency Referral Residential Facility Standard Operating Procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:666 (April 2007).

Subchapter B. Judicial Agency Referral Residential Facility Standard Operating Procedures

§1303. Administration

A. The facility shall have a written document describing the facility's organization. The document shall include an organization chart that groups similar functions, services, and activities.

B. Regular meetings between the facility administrator, or designee and all department heads shall be held and there is formal documentation that such meetings are conducted at least monthly.

C. Written policy, procedure and practice shall provide for an independent financial audit of the facility at least annually or as stipulated by statute.

D. Each facility shall have comprehensive facility insurance coverage.

E. Residents' personal funds held by the facility are controlled by accounting procedures and in accordance with §1321, Residents' Personal Funds.

F. Staffing requirements for the facility shall ensure there is 24-hour monitoring and coordinating of the facility's life safety and communications systems.

G. Standard of Conduct for Employees of Residential Programs

1. Employees are expected to conduct themselves in a manner that will not bring discredit upon their facility.

2. Each employee is to be furnished with written notice of facility rules, policies and procedures.

3. The facility will provide at least one staff person on duty 24 hours a day to control the movement and location, at all times, of all residents assigned to the facility.

4. There shall be a method of staff identification so that they can be readily identified by visitors through utilization of name tags, identification cards, etc.

5. There should be written job descriptions and job qualifications for all positions in the facility. Qualifications should reflect the level of responsibility of the position.

6. All full-time employees must receive initial orientation training during the first week of employment and must participate in training and educational activities on an annual basis.

H. A training program shall be in place which will include orientation for all new employees (appropriate to their job) prior to assuming a position. Such training shall include:

1. fire and emergency procedures;
2. suicide prevention;
3. CPR and first aid;
4. resident rules and regulations.

I. Case records shall be maintained for each resident housed at the facility.

J. Written records or logs shall be maintained at the facility which continuously documents the following information:

1. personnel on duty;
2. resident population;

3. admission and release of residents;

4. shift activities;

5. entry/exit of all visitors including legal/medical;

6. unusual occurrences (including but not limited to major and minor disturbances, fires, escapes, deaths, serious illness or injury and assaults or other acts of violence).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:667 (April 2007).

§1305. Physical Plant

A. The facility shall comply with the requirements of the State Fire Marshal and shall have a specific plan for addressing deficiencies, if any, that is approved by the State Fire Marshal. The State Fire Marshal shall approve any variances, exception or equivalencies.

B. The facility shall comply with the requirement of the State Health Officer and shall have a specific plan for addressing deficiencies, if any, that is approved by the State Health Officer.

C. The number of residents present at the facility shall not exceed the rated bed capacity as determined by the State Fire Marshal and State Health Officer. The State Fire Marshal will determine a capacity based upon exiting capabilities. The State Health Officer will determine a capacity based upon the ratio of plumbing fixtures to residents and square footage. The rated capacity will be the lower of these two figures.

D. Residents shall have access to toilets and hand washing facilities 24 hours per day and shall have access to operable showers on a reasonable schedule, (a minimum of three times per week).

E. The facility shall have sanitary areas for the storage of all foods that comply with applicable state and/or federal guidelines.

F. Toilet and hand basin facilities are available to food service personnel in the food preparation area.

G. The facility shall have exits that are properly positioned, clear, and distinctly and permanently marked to ensure the timely evacuation of residents and staff in the event of fire or other emergency.

H. The facility shall comply with all building codes, local zoning requirements and ordinances with regard to permits and licenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:667 (April 2007).

§1307. Facility Operations

A. The facility shall have a system for physically counting residents that includes strict accountability for residents assigned to the program.

B. A current master list shall be maintained at all times of all residents assigned to the facility. This list is to be updated immediately whenever the facility receives, releases, or removes a resident from the facility.

C. There are several forms of control that must be considered around the facility. Physical control of the residents assures that all are accounted for at all times. When a count is conducted and it is found that a resident who is not physically present in the facility has not signed out on the

log in accordance with the appropriate procedure or has signed out but has failed to return to the facility on time in accordance with appropriate procedures, the facility shall take immediate action to locate the resident. If the resident cannot be located a report must be filed by the next working day with the referring authority.

D. When a resident leaves the facility for any reason, he shall sign out in the facility log book. Each entry shall include: resident's name; destination; phone number at destination; address of destination; time out; anticipated time of return; actual time of return; and the initials of the appropriate staff member charged with monitoring the log book.

E. Facility staff shall ensure that resident work schedules are verified prior to the resident signing out for work.

F. Alcohol/drug testing shall be conducted both randomly and for probable cause. Costs associated with testing shall be the responsibility of the facility. However, restitution in the amount of the actual cost of the drug testing may be obtained from the resident when the test results are positive.

G. The facility itself shall remain staffed 24 hours a day in such a manner that no person can enter or exit the facility without the knowledge of the on duty staff.

H. There are written procedures for facility emergencies. Such procedures shall include the reporting of these incidents to local law enforcement or the appropriate authorities.

I. The facility shall have disciplinary rules and procedures available to the resident population.

J. Program access and administrative decisions shall be made without regard to resident's race, religion, national origin, or sex. The facility shall have written policy, procedure, and practice to protect residents from personal abuse, corporal punishment, personal injury, disease, property damage, and harassment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:667 (April 2007).

§1309. Facility Services

A. Written policy, procedure, and practice shall require that food service staff plan menus and substantially follow the plan. The planning and preparation of all meals should take into consideration nutritional characteristics and caloric adequacy. The facility shall provide a tray/plate and utensil(s) for each hot meal. Records shall be maintained for all meals served. Three meals shall be provided at regular meal times during each 24-hour period for residents present in the facility at such meal time. Variations may be allowed based on weekend and holiday food service demands provided basic nutritional goals are met. Residents shall be provided an ample opportunity to eat.

B. The denial of food as a disciplinary measure is prohibited. Special diets as prescribed by appropriate medical or dental personnel shall be provided.

C. The facility shall have a written housekeeping plan that provides for the ongoing cleanliness and sanitation of the facility in addition to a plan for the control of vermin and pests.

D. The facility has an obligation to insure that the resident has adequate clothing appropriate to the season and

the resident's work status, including adequate changes of clothing to allow for regular laundering.

E. The facility shall provide adequate bedding and linens. Residents shall have reasonable access to personal hygiene articles including soap, towels, toothbrush, toothpaste, toilet paper, shaving gear, and feminine hygiene articles.

F. The facility shall have written policy, procedure, and practice for the delivery of health care services, including medical, dental and mental health services under the control of a designated health care authority who may be a physician or a licensed or registered health care provider or health agency. Access to these services should be unimpeded in the sense that non-medical staff should not approve or disapprove residents for services in accordance with the facility's health care plan.

G. Anyone providing health care services to residents shall be licensed, registered, or certified as appropriate to their respective professional disciplines. Such personnel may only practice as authorized by their license, registration, or certification. Standing orders may be used in the treatment of residents only when authorized in writing by a physician or dentist. (Standing orders are used in the treatment of identified conditions and for the on-site emergency treatment of a resident.)

H. Personnel who do not have health care licenses may only provide limited health care services as authorized by the designated health care authority and in accordance with appropriate training. This would typically involve the administration of medication, the following of standing orders as authorized by the designated health care authority and the administration of first aid/CPR.

I. The facility shall provide 24-hour emergency medical services. This requirement may be met by agreement with a local hospital, on-call qualified health care personnel, or on-duty qualified health care personnel. Decisions regarding access to emergency medical services shall not be the sole province of non-health personnel except as noted above.

J. All residents entering the program shall receive a health screening. The purpose of the health screening is to protect newly admitting residents who pose a health safety threat to themselves or others from not receiving adequate medical attention. This should include inquiry into:

1. current medical, dental, or mental health treatment;
2. current medications;
3. current medical, dental, or mental health complaints

and documentation of appearance and behavior, and current physical traumas or characteristics.

K. The facility shall have a method in place for the proper management of pharmaceuticals. Residents are provided medication as prescribed.

L. First aid kits shall be available in areas of the facility as designated by the health care authority and should be immediately accessible to housing units.

M. Sick call shall be conducted, at least weekly, by a physician and/or other qualified health care personnel who are licensed, registered, or certified as appropriate to their respective professional disciplinary and who practice only as authorized by their license, registration, or certification.

N. There is a written suicide prevention and intervention program that is approved by a mental health professional who meets the educational and license/certification criteria

specified by his/her respective professional discipline. All staff with responsibility for resident supervision are trained in the implementation of the program.

O. Written policy, procedure, and practice shall specify and govern the actions to be taken in the event of a resident's death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:668 (April 2007).

§1311. Resident Programs

A. Educational programming shall be available from acceptable internal or external sources which should include, at a minimum, assistance in obtaining individualized program instruction at a variety of levels.

B. Written policy, procedure, and practice shall govern resident correspondence. Such policy should include provisions for inspection of mail for contraband or deterrence of material that interferes with legitimate facility objectives.

C. Written policy, procedure, and practice govern resident access to publications and packages from outside sources.

D. Written policy, procedure, and practice govern visiting. The number of visitors a resident may receive and the length of the visits may be limited only by the facility's schedule, space, and personnel constraints or when the facility administrator can present clear and convincing evidence that such visitation jeopardizes the safety and security of the facility.

E. Reading materials shall be available to residents on a reasonable basis.

F. Residents shall have reasonable opportunity for religious practice.

G. Exercise opportunities shall be available to residents adequate to ensure major muscle activity and outdoor exercise should be available on a regular basis.

H. Basic substance abuse education shall be provided to residents identified with alcohol and drug abuse problems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:669 (April 2007).

§1313. Employment

A. There need be no general restriction on the types of jobs for which a resident may be considered. Each job offer will be investigated to determine if it is bona fide and consistent with program policies. The expectation is that the job selected will be that which best fulfills the purpose of the program. Good employment placement shall give preference to jobs that are related to prior training and are suitable for continued employment. All employment plans must be consistent with state statutes. Concern for public safety shall guide employment decisions at all times. No resident is to work for or on the premises of a school, day care facility, or other business or agency whose primary objective is in the service of juveniles, or who provide housing, care and/or treatment of juveniles.

B. Every reasonable effort will be made by the facility to provide residents with the highest paying job possible. Within reason, convenience of job location, as it pertains to

the facility providing transportation, should not be a deciding factor as to where residents are employed.

C. Residents will be assisted by facility staff in obtaining gainful employment. The facility will be responsible for maintaining liaison with sources of information on available jobs and with potential employers, and will provide transportation for job interviews.

D. All employers must sign the "Employer's Work Agreement Form" (Attachment #1) which indicates the terms and rules of the resident's employment, prior to the resident reporting to work for the employer. The facility must explain the requirements contained in the "Employers Work Agreement Form" to all approved employers. A copy of the signed form will be kept on file for the duration of the resident's stay at the facility. The employer agrees to report any attendance irregularities to the facility immediately and record same.

E. The employer must agree to provide a work situation where he or his designee, preferably a supervisor, will be present with the resident or at the work site at all times. Employment that does not provide for proper supervision of the resident and/or is deemed unsuitable by the facility director may be terminated.

F. The employer's responsibility to provide proper supervision for the resident extends from the time the employer receives the resident from facility personnel, either by picking him up at the facility or by having facility personnel transport the resident to the employer, and terminates when he returns the resident back to the facility personnel, either at the facility or to facility provided transportation. The ideal situation is for no resident to be unsupervised during the transportation process to or from an employment location. However, there may be a reasonable time (defined as less than an hour) allowed before work (when a resident is dropped off) and after work (when the resident is picked up) that he may be unsupervised.

G. Should the occasion arise and a resident is not picked up in a reasonable period of time, it must be noted on the transportation log with the reason why.

H. The facility is required to keep a list, which is updated weekly, of every employer who provides work for residents assigned to that facility. This list shall include but not be limited to the name and address of the employer, a brief description of the nature of the business, relevant telephone number(s), and whether or not work is performed at a stationary location or if the resident will be required to move during the course of the day.

I. If the resident's estimated time of return changes for any reason, this change must be verified by facility staff with the employer and noted in the daily log.

J. As previously mentioned, there are no general restrictions on the types of jobs residents may be considered for except those relative to juveniles; however, common sense and logic must prevail. At all times, concern for public safety shall guide the decision. Residents should not be employed in a bar, lounge or tavern as a bartender, waiter or clean-up person. Employment in a hotel, motel or restaurant where a lounge is a part of the establishment may be acceptable if the employment is checked out by the facility and is determined to be appropriate.

K. No resident should be employed in a position which would necessitate his/her departure from the state of

Louisiana without the express consent of the District Attorney and/or the court.

L. Employer's Work Agreement Form

Employer's Work Agreement Form

RESIDENT'S NAME: _____
JOB TITLE: _____
WAGES: Rate _____ per _____ PAY PERIOD _____
OVERTIME: _____ per _____
WORK HOURS: _____ WORK DAYS: _____
EFFECTIVE DATE OF EMPLOYMENT: _____

I understand and agree to the following:

- (1). Any resident in my employ will be covered by my insurance, and/or workmen's compensation insurance as required by law.
- (2). The resident may be withdrawn from employment in the event of a strike.
- (3). The consumption of alcohol beverages or illegal drugs by the resident is prohibited. If the employer has knowledge or suspicion that the resident is using either of these substances, the facility administrator will be notified immediately.
- (4). The resident must report immediately to and return directly from work each day. The employer will immediately report any known violations to the facility administrator.
- (5). Staff from the residential facility may visit the resident=s work site at any time.
- (6). The employer agrees to provide a work situation where he or his designee, preferably a supervisor, will be present with the resident or at the work site at all times.

The wages of the resident shall be made out to the resident on a standard payroll check. No other wages or cash should be given to the resident directly. The payroll check shall be accompanied by a statement which includes the resident's name, deductions made, the pay period and the computation of gross wages.

NAME: _____ TITLE: _____
COMPANY or ORGANIZATION: _____
ADDRESS: _____ PHONE: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:669 (April 2007).

§1315. Community Involvement

A. Community involvement and volunteers can be an important contribution to any program by providing a number of services to residents, as well as serving as a link between the facility and the community. Policies and procedures regarding citizen involvement shall be developed and volunteers should be subject to approval by the facility administrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:670 (April 2007).

§1317. Resident Activities

A. Daily Log. A daily log shall be maintained which will indicate when residents report to and leave work, and will list events, messages, telephone calls, incidents, etc. This daily log will begin at 12 midnight and cover a 24 hour period. All resident work schedules shall be verified by facility staff prior to the inmate being logged out for work.

B. Resident Log

1. A daily resident log shall be maintained which will indicate when residents leave and return to the facility for any reason. The resident will sign out in the facility log book. Each entry will include: residents' name; destination; phone number at destination; address at destination; time out; anticipated time of return; actual time of return; and the resident's signature upon return. The employee on duty will initial each entry when the resident leaves the facility and when he returns. A clock with the correct time will be visible to both the resident and the employee and will serve as the official timepiece. This daily resident log will begin at 12 midnight and cover a 24 hour period. Resident logs will be kept on file for at least three years.

2. Random pat searches will be conducted in such a manner so as to discourage the introduction of contraband into the facility. Random pat searches and alcohol breath tests will be administered by a staff member to the resident population each day as they return to the facility. All searches and breath tests will be entered on the daily log.

C. Transportation Log. A daily transportation log will be kept on the activities of each transportation vehicle. This log will indicate who is driving the vehicle, when a resident enters the vehicle, when and where he is dropped off, when a resident is picked up, and from where, and when he is returned to the facility. This daily transportation log will begin at 12 midnight and cover a 24 hour period. Daily transportation logs will be kept on file for at least three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:670 (April 2007).

§1319. Resident Discipline

A. Residents assigned to a residential program shall comply with all rules and procedures set forth by the facility. Each resident shall receive a copy of the facility handbook, all other rules and regulations of the program of that facility, including disciplinary procedures available to the staff, which the resident is required to read. The resident shall sign and date a statement acknowledging this, which is placed in his file.

B. All of the above shall be provided to the resident prior to his voluntary entry into the program.

C. The facility is responsible for ensuring that disciplinary reports are completed accurately and staff completing reports should receive training on report writing. A supervisor should review disciplinary reports prior to submission making certain essential elements (who, what, when, where, etc.) are covered with clarity. It is essential that reports be accurate as residents are subject to removal from the facility program for serious violations.

D. Restriction of Privileges. When residents are found guilty of a rule violation and are assessed penalties which restrict their privileges, the privileges which are restricted and the amount of time imposed should be posted in a conspicuous place so that all staff members are aware of the restrictions. Under no circumstances will privileges be restricted without a proper disciplinary report, a due process

hearing, and a finding of guilty. The denial of food will not be used as a disciplinary measure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:670 (April 2007).

§1321. Resident Personal Funds

A. In keeping with the goals and objectives of the residential program, the facility should ensure as much of the resident's earned net wages as possible are maintained and available to the resident immediately upon release.

B. Funds held on behalf of the resident must be properly accounted for. The collection and disbursement of the resident's wages as well as the methods used for the receipt, safeguarding, disbursement and recording of funds must comply with generally accepted accounting principles. The legislative auditor of the state of Louisiana and/or the Office of the Governor, Division of Administration auditors shall have the option of auditing all accounts of the facility.

C. A ledger will be maintained reflecting the financial status of each resident in the facility, and there will be adequate documentation to support the receipt/expenditure of resident funds.

D. Internal Control

1. Certificates of bonding documenting coverage of staff handling resident's funds shall be available on site at the facility.

2. The facility will process all personal funds received on behalf of the resident, issue pre-numbered receipts for funds and post receipts to a ledger indicating receipt number. Funds received will be deposited daily (within 24 hours with the exception of weekends and holidays) in a public banking institution in an account designated "Resident Funds" and credits posted to the resident ledger.

3. All withdrawals or expenditures by a resident will be documented by a withdrawal request form, signed and dated by the resident. The withdrawal/expenditure is to be posted to the resident ledger with an adequate description relating to the transaction.

4. A statement of account balance will be given to the residents monthly.

5. The residents' account will be reconciled monthly. Upon receipt of the monthly bank statement, the facility prepares reconciliation to the resident ledger by:

a. adding all deposits and deducting all withdrawals to each individual ledger to determine each resident's current balance;

b. total current month's balances for all residents' ledgers including balances carried forward from previous months which have had no transactions in the current month;

c. compare this total to the reconciled bank balance;

d. investigate and resolve any discrepancies between the bank and the resident ledger.

E. Other Deductions Allowed

1. Allowance. The facility will develop procedures to determine the weekly allowance needed for incidental personal expenses in accordance with provisions in this Chapter. Residents(s) may be allotted up to \$30 weekly for living allowance.

2. Support of the Resident's Dependents. The resident and facility will mutually agree upon the amount to be sent to dependents. This agreement and authorization should be

in writing. If there is a legal judgment of support, that judgment will suffice as written authorization to disburse the money.

3. Payment of the Resident's Obligations. Debts acknowledged by the resident shall be in writing, or reduced to judgment (including victim restitution), and should reflect the schedule by which the resident wishes the debt to be repaid. The facility will ensure that payment of this type debt is legitimate.

4. Canteen items should be priced at a reasonable cost to residents. Contractors that operate a canteen will provide to the facility administrator a list of canteen items sold and the price list of the cost of the item to the resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:671 (April 2007).

Richard L. Stalder
Secretary

0704#007

RULE

**Department of Public Safety and Corrections
Office of the State Fire Marshal**

Code Standards (LAC 55:V.103 and 303)

In accordance with the provisions of R.S. 40:1563 relative to the authority of the Office of State Fire Marshal to promulgate and enforce rules, the Office of State Fire Marshal hereby amends the following Sections regarding adopted code standards, review of plans and building inspections.

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 1. Preliminary Provisions

§103. General Provisions

A. It shall be the policy of the State Fire Marshal that in all instances or specifications provided in the statutes or in the codes referenced by the statutes, or by any specific references in administrative rulings by the State Fire Marshal, that the *Standard Building Code* published by the Southern Building Code Congress International, and the *International Building Code* published by the International Code Council, and the National Fire Codes published by the National Fire Protection Association as specifically identified in the following list, shall be used as the resource materials for determinations by the State Fire Marshal.

NFPA 1	2006 Edition	Uniform Fire Code
NFPA 10	2002 Edition	Standard for Portable Fire Extinguishers
NFPA 11	2005 Edition	Standard for Low-, Medium-, and High-Expansion Foam
NFPA 12	2005 Edition	Standard on Carbon Dioxide Extinguishing Systems
NFPA 12A	2004 Edition	Standard on Halon 1301 Fire Extinguishing Systems
NFPA 13	2007 Edition	Standard for the Installation of Sprinkler System

NFPA 13D	2007 Edition	Standard for the Installation of Sprinkler Systems in On- and Two-Family Dwellings and Manufactured Homes
NFPA 13R	2007 Edition	Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height
NFPA 14	2007 Edition	Standard for the Installation of Standpipe and Hose Systems
NFPA 15	2007 Edition	Standard for Water Spray Fixed Systems for Fire Protection
NFPA 16	2003 Edition	Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems
NFPA 17	2002 Edition	Standard for Dry Chemical Extinguishing Systems
NFPA 17A	2002 Edition	Standard for Wet Chemical Extinguishing Systems
NFPA 18	2006 Edition	Standard on Wetting Agents
NFPA 20	2007 Edition	Standard for the Installation of Stationary Pumps for Fire Protection
NFPA 22	2003 Edition	Standard for Water Tanks for Private Fire Protection
NFPA 25	2002 Edition	Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems
NFPA 30	2003 Edition	Flammable and Combustible Liquids Code
NFPA 30A	2003 Edition	Code for Motor Fuel Dispensing Facilities and Repair Garages
NFPA 30B	2002 Edition	Code for the Manufacture and Storage of Aerosol Products
NFPA 31	2001 Edition	Standard for the Installation of Oil-Burning Equipment
NFPA 32	2004 Edition	Standard for Drycleaning Plants
NFPA 33	2007 Edition	Standard for Spray Application Using Flammable or Combustible Materials
NFPA 34	2007 Edition	Standard for Dipping and Coating Processes Using Flammable or Combustible Liquids
NFPA 37	2002 Edition	Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines
NFPA 42	2002 Edition	Code for the Storage of Pyroxylin Plastic
NFPA 45	2004 Edition	Standard on Fire Protection for Laboratories Using Chemicals
NFPA 51	2002 Edition	Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes
NFPA 51B	2003 Edition	Standard for Fire Prevention During Welding, Cutting, and Other Hot Work
NFPA 52	2006 Edition	Compressed Natural Gas (CNG) Vehicular Fuel Systems Code
NFPA 53	2004 Edition	Recommended Practice on Materials, Equipment, and Systems Used in Oxygen-Enriched Atmospheres
NFPA 54	2006 Edition	ANSI Z223.1-2002 National Fuel Gas Code
NFPA 55	2005 Edition	Standard for the Storage, Use, and Handling of Compressed Gases and Cryogenic Fluids in Portable and Stationary Containers, Cylinders, and Tanks
NFPA 58	2004 Edition	Liquefied Petroleum Gas Code
NFPA 59A	2006 Edition	Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)
NFPA 61	2002 Edition	Standard for the Prevention of Fires and Dust Explosions in Agricultural and Food Processing Facilities
NFPA 68	2002 Edition	Guide for Venting of Deflagrations

NFPA 69	2002 Edition	Standard on Explosion Prevention Systems
NFPA 70	2005 Edition	National Electrical Code
NFPA 72	2002 Edition	National Fire Alarm Code
NFPA 80	1999 Edition	Standard for Fire Doors and Fire Windows
NFPA 82	2004 Edition	Standard on Incinerators and Waste and Linen Handling Systems and Equipment
NFPA 88A	2002 Edition	Standard for Parking Structures
NFPA 90A	2002 Edition	Standard for the Installation of Air-Conditioning and Ventilating Systems
NFPA 90B	2006 Edition	Standard for the Installation of Warm Air Heating and Air-Conditioning Systems
NFPA 92A	2006 Edition	Recommended Practice for Smoke-Control Systems
NFPA 92B	2005 Edition	Guide for Smoke Management Systems in Malls, Atria, and Large Areas
NFPA 96	2004 Edition	Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations
NFPA 99	2005 Edition	Standard for Health Care Facilities
NFPA 99B	2005 Edition	Standard for Hypobaric Facilities
NFPA 101	2006 Edition	Life Safety Code
NFPA 101A	2004 Edition	Guide on Alternative Approaches to Life Safety
NFPA 102	1995 Edition	Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures
NFPA 105	2003 Edition	Standard for the Installation of Smoke Door Assemblies
NFPA 110	2005 Edition	Standard for Emergency and Standby Power Systems
NFPA 111	2005 Edition	Standard on Stored Electrical Energy Emergency and Standby Power Systems
NFPA 140	2004 Edition	Standard on Motion Picture and Television Production Studio Soundstages and Approved Production Facilities
NFPA 150	2000 Edition	Standard on Fire Safety in Racetrack Stables
NFPA 160	2006 Edition	Standard for Flame Effects Before an Audience
NFPA 170	2006 Edition	Standard for Fire Safety Symbols
NFPA 204	2002 Edition	Standard for Smoke and Heat Venting
NFPA 211	2003 Edition	Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances
NFPA 220	2006 Edition	Standard on Types of Building Construction
NFPA 221	2006 Edition	Standard for Fire Walls and Fire Barrier Walls
NFPA 303	2006 Edition	Fire Protection Standard for Marinas and Boatyards
NFPA 307	2006 Edition	Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves
NFPA 407	2007 Edition	Standard for Aircraft Fuel Servicing
NFPA 409	2004 Edition	Standard on Aircraft Hangars
NFPA 415	2002 Edition	Standard on Airport Terminal Buildings, Fueling Ramp Drainage, and Loading Walkways
NFPA 418	2006 Edition	Standard for Heliports
NFPA 430	2004 Edition	Code for the Storage of Liquid and Solid Oxidizers
NFPA 432	2002 Edition	Code for the Storage of Organic Peroxide Formulations
NFPA 434	2002 Edition	Code for the Storage of Pesticides
NFPA 484	2006 Edition	Standard for Combustible Metals, Metal Powders, and Metal Dusts

NFPA 490	2002 Edition	Code for the Storage of Ammonium Nitrate
NFPA 495	2006 Edition	Explosive Materials Code
NFPA 654	2006 Edition	Standard for the Prevention of Fire and Dust Explosions from the Manufacturing, Processing, and Handling of Combustible Particulate Solids
NFPA 664	2002 Edition	Standard for the Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities
NFPA 701	2004 Edition	Standard Methods of Fire Tests for Flame Propagation of Textiles and Films
NFPA 703	2006 Edition	Standard for Fire Retardant Impregnated Wood and Fire Retardant Coatings for Building Materials
NFPA 750	2006 Edition	Standard on Water Mist Fire Protection Systems
NFPA 801	2003 Edition	Standard for Fire Protection For Facilities Handling Radioactive Materials
NFPA 820	2003 Edition	Standard for Fire Protection in Wastewater Treatment and Collection Facilities
NFPA 901	2006 Edition	Standard Classifications for Incident Reporting and Fire Protection Data
NFPA 909	2005 Edition	Code for the Protection of Cultural Resources
NFPA 914	2007 Edition	Code for Fire Protection of Historic Structures
NFPA 1031	2003 Edition	Professional Qualifications for Fire Inspector and Plan Examiner
NFPA 1123	2006 Edition	Code for Fireworks Display
NFPA 1124	2006 Edition	Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles
NFPA 1126	2006 Edition	Standard for the Use of Pyrotechnics before a Proximate Audience
NFPA 1221	2007 Edition	Standard for the Installation, Maintenance, and Use of Emergency Services Communications Systems
NFPA 1402	2002 Edition	Guide to Building Fire Service Training Centers
NFPA 1403	2002 Edition	Standard on Live Fire Training Evolutions
NFPA 1961	2002 Edition	Fire Hose
NFPA 1962	2003 Edition	Inspection, Care, and Use of Fire Hose
NFPA 2001	2004 Edition	Standard on Clean Agent Fire Extinguisher Systems

B. All inspections and other evaluations of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal for review shall be made utilizing new construction requirements set forth in the *Life Safety Code* published by the National Fire Protection Association and the "Special Provisions for High-Rise Building" Section of the *Standard Building Code* published by the Southern Building Code Congress International as follows.

Building Constructed or Remodeled	Life Safety Code Edition	Section / Standard Building Code Edition	Sections / International Building Code Edition
prior to 1/1/1975	1967	-	-
1/1/1975 to 12/31/1979	1973	518 / 1974 Chapter 4 revisions to 1973	-
1/1/1980 to 8/31/1981	1976	518 / 1974 Chapter 4 revisions to 1973	-

Building Constructed or Remodeled	Life Safety Code Edition	Section / Standard Building Code Edition	Sections / International Building Code Edition
9/1/1981 to 8/31/1986	1981	506 / 1979	-
9/1/1986 to 2/18/1989	1985	506 / 1985	-
2/19/1989 to 5/31/1992	1988	506 / 1985	-
6/1/1992 to 1/4/1995	1991	506 / 1988	-
1/5/1995 to 5/31/1998	1994	506 / 1991	-
6/1/1998 to 6/30/2001	1997	412 / 1994	-
7/1/2001 to 12/31/2001	2000	412 / 1994	-
1/1/2002 to 6/30/2004	2000	412 / 1997	-
7/1/2004 to 9/30/2007	2003	-	-
after 10/1/2007	2006	-	-

C. All references to performance based criteria in the *Life Safety Code* shall only be considered by the Office of State Fire Marshal after an appeal of a decision has been timely made.

D. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:145 (February 1975), amended LR 5:468 (December 1979), LR 6:71 (February 1980), amended by the Office of the State Fire Marshal, LR 7:588 (November 1981), LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 15:96 (February 1989), LR 17:1114 (November 1991), LR 23:1688 (December 1997), LR 27:857 (June 2001), LR 27:2257 (December 2001), repromulgated LR 29:183 (February 2003), amended LR 30:1303 (June 2004), LR 33:671 (April 2007).

Chapter 3. Buildings

§303. Plans and Specifications for New Buildings

A. As of October 1, 2007, the plans and specifications for every structure built or remodeled in the state of Louisiana must be drawn in accordance with the requirements of the 2006 Edition of the *Life and Safety Code* (excluding Chapter 5) of the National Fire Protection Association. Chapter 5, Performance Based Option, may be used as a basis for appeal equivalency determinations.

B. - D. ...

E. Regarding "Building Rehabilitation," compliance in accordance with LAC 55:V:103.B shall be considered by the Office of State Fire Marshal as an equivalent alternative for compliance with the applicable existing chapter, where the applicable existing chapters are prescribed in the latest adopted NFPA 101 Life Safety Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:143 (February 1975), amended LR 5:468 (December 1979), LR 6:72 (February 1980), amended by the Office of the State Fire Marshal, LR 7:344 (July 1981), LR 7:588 (November 1981), LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 12:116 (February 1986), LR

15:96 (February 1989), LR 17:1115 (November 1991), LR 23:1692 (December 1997), LR 30:1305 (June 2004), LR 33:673 (April 2007).

Jill Boudreaux
Undersecretary

0704#024

RULE

Department of Social Services Office of Family Support

Earned Income Tax Credit and Tax Assistance Program for Filers without Children (LAC 67:III.5801-5805)

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, has adopted LAC 67:III, Subpart 17, Chapter 58, the Earned Income Tax Credit and Tax Assistance Program for Filers without Children.

Pursuant to Executive Order KBB 2005-17, Section 2C, the agency adopted Subpart 17, Chapter 58, the Earned Income Tax Credit and Tax Assistance Program for Filers without Children, to provide a tax filing service offered free of charge to low-income taxpayers. This program serves Earned Income Tax Credit (EITC) filers who are not TANF-eligible and educates these low-income taxpayers on eligibility for EITC and other credits.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 17. Earned Income Tax Credit and Tax Assistance Program for Filers without Children

Chapter 58. Earned Income Tax Credit and Tax Assistance Program for Filers without Children

Subchapter A. Designation and Authority of State Agency

§5801. Authority

A. The Earned Income Tax Credit and Tax Assistance Program for Filers Without Children Program is established in accordance with Executive Order KBB 2005-17 Louisiana Solutions to Poverty Network Council, effective November 1, 2006, to provide a tax filing service offered free of charge to low-income taxpayers.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 2005-17 Louisiana Solutions to Poverty Network Council.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:674 (April 2007).

§5803. Administration

A. The Earned Income Tax Credit and Tax Assistance Program for Filers Without Children Program shall be administered by the Department of Social Services, Office of Family Support through contracts with outside entities.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 2005-17 Louisiana Solutions to Poverty Network Council.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:674 (April 2007).

Subchapter B. Eligibility

§5805. Conditions of Eligibility

A. Eligibility for services is limited to:

1. individuals without minor children who meet the U.S. Department of the Treasury Internal Revenue Service's Earned Income Tax Credit income eligibility standard; or

2. married couples without minor children who meet the U.S. Department of the Treasury Internal Revenue Service's Earned Income Tax Credit income eligibility standard.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 2005-17 Louisiana Solutions to Poverty Network Council.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:674 (April 2007).

Ann S. Williamson
Secretary

0704#063

RULE

Department of Social Services Office of Family Support

TANF Homeless Initiative (LAC 67:III.5589)

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, has adopted LAC 67:III, Subpart 15, Chapter 55, §5589, Homeless Initiative, as a new TANF Initiative.

Pursuant to Act 17 of the 2006 Regular Session of the Louisiana Legislature, the agency adopted the Homeless Initiative to end the cycle of homelessness in Louisiana by stabilizing homeless families and aiding these families in establishing permanent housing and becoming self-sufficient.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5589. Homeless Initiative

A. Effective December 1, 2006, the Office of Family Support shall enter into contracts with public agencies, non-profit organizations, or for-profit organizations to end the cycle of homelessness in Louisiana by providing services to homeless families which include but are not limited to comprehensive case management, educational and employment opportunities for adult participants, community referrals, life skill modules, housing options and direct services to provide for basic needs.

B. These services meet the TANF goals to provide assistance to needy families so children may be cared for in their own homes or in the homes of relatives.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food

Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family consists of minor children, custodial parents, legal guardians, or caretaker relatives of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 17, 2006 Reg. Session

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:674 (April 2007).

Ann Silverberg Williamson
Secretary

0704#062

RULE

Department of Social Services Office of Family Support

TANF Initiatives—Earned Income Credit (EITC) Program (LAC 67:III.5581)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 15, Chapter 55, §5581, Earned Income Tax Credit Program.

Pursuant to Act 16 of the 2005 Regular Legislative Session, and Act 17 of the 2006 Regular Legislative Session, the agency amended the TANF goal being met by the services provided under §5581, Earned Income Tax Credit (EITC) Program, from TANF Goal 4 to TANF Goal 2, and established income eligibility factors for the services.

Additionally, the program has been amended to include financial literacy as an additional service.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5581. Earned Income Tax Credit (EITC) Program

A. The agency has entered into contracts to provide public awareness, education and targeted outreach strategies regarding the benefits of claiming the Earned Income Tax Credit (EITC) Program, state tax credit programs, and free taxpayer assistance effective November 1, 2006, to EITC-eligible families, and to provide financial literacy to families receiving services under this program. Strategies include collaboration with the Internal Revenue Service, various state departments and the targeted expansion of existing outreach activities to assure that free taxpayer assistance to EITC-eligible families is available statewide.

B. These services meet the TANF goal, effective November 1, 2006, to end dependence of needy parents by promoting job preparation, work, and marriage.

C. Effective November 1, 2006, eligibility for services is limited to those families with minor children who meet the Internal Revenue Service's EITC income eligibility standards.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 1, 2004 Reg. Session, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 31:1610 (July 2005), amended LR 33:675 (April 2007).

Ann S. Williamson
Secretary

0704#064

RULE

Department of Social Services Office of Family Support Support Enforcement Services Program

Support Enforcement Services Program—Passport Denial (LAC 67:III.2547)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, has adopted Title 67, Part III, Subpart 4, Support Enforcement Services (SES), Chapter 25, Subchapter L, Section 2547, Passport Denial, which provides for the denial, revocation, and restriction of a passport to individuals who owe past due child support.

The Deficit Reduction Act of 2005 states that any person certified by the Secretary of Health and Human Services (HHS) to the Secretary of State as owing past due child support in an amount exceeding \$2,500 is ineligible to receive a United States passport.

This amendment is necessary to maximize collections and ensure Louisiana's continued compliance with federal regulations.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter L. Enforcement of Support Obligations

§2547. Passport Denial

A. SES shall administratively collect past due child support in accordance with the Passport Denial Program. Individuals owing past due child support amounts in excess of the federally-mandated threshold will be automatically certified to the United States Department of State for passport denial unless the state agency certifying their past due support amount excludes them from this remedy.

B. SES will send an advance notice to each non-custodial parent owing past due child support whose name will be submitted for the Passport Denial Program. This notice will advise the non-custodial parent of the right to request an administrative review of the past due support with the state(s) that has certified them for the debt.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 652(k)(1), 42 USC 654(31) and DCL-06-14.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:675 (April 2007).

Ann Silverberg Williamson
Secretary

0704#060

RULE

Department of Treasury Board of Trustees of the Louisiana State Employees' Retirement System

Sunset (LAC 58:I.3519)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has repealed LAC 58:I.3519, regarding the sunset date for the Optional Retirement Plan ("ORP"). The original date has been changed through legislation, rendering the Rule obsolete. This Rule change complies with and is enabled by R.S. 11:515.

No preamble for this Rule is necessary.

Title 58

RETIREMENT

Part I. Louisiana State Employees' Retirement System Chapter 35. Optional Retirement Plan

§3519. Sunset

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1492 (July 2000), amended LR 29:1121 (July 2003), repealed LR 33:676 (April 2007).

Cindy Rougeou
Executive Director

0704#023

RULE

Department of Treasury Board of Trustees of the Louisiana State Employees' Retirement System

Voluntary Deductions from Retiree Benefits Payroll
(LAC 58:I.1101 and 1103)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has amended LAC 58:I.1101 and LAC 58:I.1103, which provide for voluntary deductions by LASERS retirees from their retirement benefits. They are being amended in order to comply with the Pension Protection Act of 2006 by allowing additional choices of insurance through an enhanced array of vendors. These Rule changes comply with and are enabled by R.S. 11:515.

Recently, the United States Congress enacted the Pension Protection Act of 2006, which affects LASERS because its membership is made up in part of certain public safety retirees covered under the Act. LASERS must provide these

persons with the opportunity for a tax-free distribution of up to \$3000 per year for the payment of accident, health or long-term care insurance.

No preamble for this Rule is necessary.

Title 58

RETIREMENT

Part I. Louisiana State Employees' Retirement System Chapter 11. Voluntary Deductions from Retiree Benefits Payroll

§1101. Application Process for Voluntary Payroll Deduction

A. Application shall be made by the company, corporation, or organization which is the provider of coverage, product, service, or recipient of monies and shall be signed by two officers of the applicant company, corporation, or organization. The completed application shall be submitted to LASERS.

B. The following type providers of services shall be considered for approval:

1. the State Group Benefits program;
2. the group insurance plan administered by the Department of Employment and Training;
3. the Retired State Employees' Association;
4. general insurance companies and other providers that are included on the annual listing maintained by the Office of State Uniform Payroll;
5. credit unions formed for the primary purpose of serving state employees that have a payroll deduction for employees of the members' agencies;
6. other member or retiree associations approved by the board of trustees;
7. vendors receiving payment through voluntary deductions on the effective date of these rules; and
8. other insurance companies approved by the board of trustees.

C. Applicant shall designate a coordinator to act as primary contact with LASERS for resolution of invoicing, refund, and reconciliation problems and resolving claims problems for retirees.

D. All vendors shall file annual renewal applications with LASERS.

E. Applications shall be received by LASERS between June 1 and July 30 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), LR 33:676 (April 2007).

§1103. Applicant and Vendor Requirements

A. General insurance vendors shall meet the requirements established by the Division of Administration and shall either be included on the annual listing maintained by the Office of State Uniform Payroll or approved by the board of trustees.

B. Any provider who qualifies to submit an application under §1101.B.5 or B.7 above shall meet the regulatory requirements of the appropriate federal or state regulatory agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement

Cindy Rougeou
Executive Director

0704#022

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

**Farm Raised Alligators—Return Rate and Release Length
(LAC 76:V.701)**

The Wildlife and Fisheries Commission has amended the regulations governing the return rate and release length for farm raised alligators within the Alligator Regulations (LAC 76:V.701).

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 7. Alligators

§701. Alligator Regulations

A. - A.13.d. ...

14. Alligator Egg Collection

a. - i. ...

j. The alligator egg collection permittee and the landowner are responsible for the return of the percentage of live alligators to the wild described on the alligator egg collection permit. This requirement is nontransferable. Minimum return rates will be based upon the state average hatching success which is 78 percent. In no case shall the return rate be less than 12 percent at 48 inches total length. Each alligator shall be returned to the original egg collection area within a maximum time of two years from date of hatching. Each alligator shall be a minimum of 36 inches and a maximum of 54 inches (credit will not be given for inches above 54 inches, however each farmer will be allowed to return a maximum of 5 percent of their total releases due in any given year in the size range of 55 inches to 60 inches total length; no alligator over 60 inches will be accepted for release) in total length and the returned sex ratio should contain at least 50 percent females. The alligator egg collection permittee/landowner are responsible for and must compensate in kind for alligator mortality which occurs for department-authorized return to the wild alligators while being processed, stored, or transported. The department shall be responsible for supervising the required return of these alligators. A department transfer authorization permit is not required for return to the wild alligators which are delivered to the farm of origin no more than 48 hours prior to being processed for wild release. Releases back to the wild will only occur between March 15 and August 25 of each calendar year provided that environmental conditions as determined by the department are favorable for survival of the released alligators. Any farmer who owes 1,000 or more alligators at 48 inches must release at least 1/4 of the total owed for that year by April 30; at least another quarter by June 15, at least another quarter by July 31; and the remainder by August 25. A farmer may do more than the required one-fourth of his releases earlier if available unscheduled days allow. Should an alligator egg collection

permittee be unable to release the required number of alligators to the wild from his own stock, he shall be required to purchase additional alligators from another farmer to meet compliance with the alligator egg collection permit and these regulations, as supervised by the department. Department-sanctioned participants in ongoing studies involving survivability and return rates are exempt from these requirements during the period of the study. Violation of this Subparagraph is a Class Four violation as described in R.S. Title 56.

14.k. - 17.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:259, R.S. 56:262, R.S. 56:263 and R.S. 56:280.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:892 (September 1991), LR 19:215 (February 1993), LR 20:321 (March 1994), LR 26:1492 (July 2000), LR 28:1996 (September 2002), LR 30:2338 (October 2004), LR 30:2878 (December 2004), LR 31:2267 (September 2005), LR 33:677 (April 2007).

Terry D. Denmon
Chairman

0704#044

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Wild Alligator Harvesting (LAC 76:V.701)

The Wildlife and Fisheries Commission has amended the regulations governing firearm usage for harvesting wild alligators, application requirements for wild alligator harvest tags, allowing alligator farmers additional time for tagging farm raised alligator skins, establishing East and West Alligator Hunting Zones, establishing wild season opening dates, and requiring that alligator farmers and dealers provide belly width measurements on farm raised alligator skins within the Alligator Regulations (LAC 76:V.701).

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 7. Alligators

§701. Alligator Regulations

A. - A.4.I. ...

5. Wild Harvest Methods

a. - c.ii. ...

iii. firearms (the possession of shotguns is prohibited while hunting or taking wild alligators; except as authorized by the department for taking of nuisance alligators by nuisance alligator hunters).

NOTE: Violation of this Subparagraph is a Class Two violation as described in Title 56.

d. - h. ...

6. Alligator Hide Tag Procurement and Tagging Requirements

a. - b.i. ...

ii. Land managers and hunters must present a signed document from the landowner verifying their selection to represent that landowner and the total acreage represented to obtain hide tags.

b.iii. - d. ...

e. A hide tag shall be properly attached and locked using the tag's locking device in the alligator's tail immediately upon possession by an alligator hunter. Alligator farmers, fur buyers and fur dealers may wait until farm raised alligators are skinned prior to tagging, but under no circumstances can the tag be attached using the locking device more than 48 hours after dispatching the alligator during the open wild alligator harvest season, or more than seven days after dispatching the alligator outside of the open wild alligator harvest season. Live or dead farm raised alligators may be transported with their accompanying tags from a licensed alligator farm to a licensed processing facility, however each shipment shall be accompanied with the exact number of alligator hide tags. In the event that an alligator tag contains a factory defect rendering it unusable for the purpose intended or becomes detached from an alligator or hide, the tag must be reattached to the tail of the alligator/hide. The department will be responsible for the replacement of reattached tags prior to shipping out-of-state or prior to tanning within the state. It shall be unlawful to tag or attempt to tag an alligator with a tag that has been locked prior to the taking. Locked tags may be replaced upon request at the discretion of the department. The alteration of hide tags is strictly prohibited and will result in the confiscation of all tags and alligators/hides and the revocation of the violator's alligator hunting license. Violation of this Subparagraph is a Class Four violation as described in Title 56.

f. - f.vii. ...

7. Open Season, Open Areas, and Quotas

a. Open seasons are as follows.

i. The state shall be divided into the East and West Alligator Hunting Zones by the following boundary: Beginning at the southwestern most part of Point Au Fer Island thence North along the western boundary of Terrebonne Parish to the Atchafalaya River, thence north along the Atchafalaya River to the East Atchafalaya Protection Levee, thence north along the East Atchafalaya Protection Levee, to Interstate 10, thence east along Interstate 10 to Interstate 12, thence east along Interstate 12 to Interstate 55, thence north along Interstate 55 to the Mississippi state line. The season for taking alligators in the wild shall open on the last Wednesday of August in the East Zone and the first Wednesday of September in the West Zone and will remain open for 30 days thereafter in each

zone. The secretary shall be authorized to close, extend, delay, or reopen the season as biologically justifiable.

a.ii. - e. ...

8. Possession

a. ...

b. Alligator farmers may request hide tags or shipping labels from the department to be used on farm-raised alligators that have died and may hold those alligators in freezers until receipt of the requested hide tags or shipping labels. These alligators may be held in freezers for a maximum of 60 days prior to disposal. All farm raised alligators 24 inches and greater in length that die may be skinned and tagged with an alligator hide tag within 48 hours of death during the open wild alligator harvest season, or within seven days of death outside of the open wild alligator harvest season. Violation of this Subparagraph is a Class Three violation as described in R.S. Title 56.

8.c. - 10.e. ...

11. Report Requirements

a. - e.ii.(a). ...

(b). official shipping manifest including total length in inches (or feet and inches) referenced to CITES tag number of each wild skin in shipment and including total belly width in centimeters (measured at the fifth scute) referenced to CITES tag number of each farm raised alligator skin in shipment. A fully executed (filled out) shipping manifest containing all information required in the buyer/dealer record may be substituted with department approval for the buyer/dealer record requirement on farm raised alligator skins;

11.e.ii.(c). - 17.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:259, R.S. 56:262, R.S. 56:263 and R.S. 56:280.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:892 (September 1991), LR 19:215 (February 1993), LR 20:321 (March 1994), LR 26:1492 (July 2000), LR 28:1996 (September 2002), LR 30:2338 (October 2004), LR 30:2878 (December 2004), LR 31:2267 (September 2005), LR 33:677 (April 2007).

Terry D. Denmon
Chairman

0704#045

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Horticulture Commission

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

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

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

Title 7

AGRICULTURE AND ANIMALS

Part XXIX. Horticulture Commission

Chapter 1. Horticulture

§102. Definitions

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

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

* * *

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

* * *

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

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

§117. Professional and Occupational Standards and Requirements

A. Retail Florist

1. Professional Standards

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

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

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

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

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

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

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

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

2. Requirements

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

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

B. Landscape Architect

1. - 5h. ...

C. Wholesale Florist

1. - 3. ...

D. Horticulturist

1. - 5. ...

E. Arborist

1. - 9. ...

F. Landscape Contractor

1. - 6. ...

G. Nursery Stock Dealer

1. - 6. ...

H. Cut Flower Dealer

1. - 3. ...

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

I. Utility Arborist

1. - 5. ...

J. Landscape Irrigation Contractor

1. - 4. ...

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

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

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

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

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

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

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

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

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

§123. Clarifications

Repealed.

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

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

Family Impact Statement

The proposed amendments to Rule LAC 7:XXIX.102, 117 and 123 regarding professional standards and requirements for retail florists should not have any known or foreseeable impact on any family as defined by R.S. 49:972D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

All interested persons may submit written comments on the proposed Rule through May 23, 2007 to Craig Roussel, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. No preamble concerning the proposed Rule is available.

Bob Odom
Commissioner

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

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

Skip Rhorer
Assistant Commissioner
0704#049

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

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

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

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

Title 61

REVENUE AND TAXATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§1602. Definitions

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

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

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

Base Investment—the actual investment made and expended by:

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

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

Commissioner—the Commissioner of the Division of Administration.

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

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

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

Division—the Division of Administration.

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

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

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

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

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

Office—the Office of Entertainment Industries Development.

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

Secretary—the Secretary of the Department of Economic Development.

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

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

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

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

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

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

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

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

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

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

§1603. Application for the Motion Picture Investor Tax Credit

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

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

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

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

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

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

i. the allocating entity:

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

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

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

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

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

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

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

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

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

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

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

§1604. Certification of Investor Tax Credits

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

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

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

b. name of the requesting production or infrastructure company;

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

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

e. Louisiana office address;

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

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

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

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

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

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

k. detailed preliminary budget;

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

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

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

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

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

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

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

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

B. Certifications

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§1605. Base Investment Calculation

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

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

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

§1606. Infrastructure Portion of the Investor Tax Credit

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

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

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

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

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

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

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

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

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

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

b. The contract includes a completion bond.

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

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

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

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

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

§1607. Payroll Portion of the Investor Tax Credit

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

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

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

Family Impact Statement

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

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

Interested persons should submit written comments on the proposed Rule to Christopher Stelly through the close of business on May 10, 2007, at P. O. Box 94185, Baton Rouge, LA 70804-9185 or 1051 North Third Street, Baton Rouge, LA 70802. Comments may also be submitted by e-mail to cstelly@la.gov or by fax to 225-342-5403. A meeting for the purpose of receiving the presentation of oral comments will be held on May 29, 2007 at the Department of Economic Development, 1301 North Third St., Baton Rouge, LA.

Sherri McConnell
Director

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

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

The proposed rules will have no implementation costs to state or local governmental units. The Department of Economic Development and the Division of Administration have adequate funding and staff to monitor and administer the Motion Picture Investor Tax Credit Program.

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

Film and video production activity in the state associated with the tax credit program has resulted in state and local tax receipts estimated at \$51.4 million over the 2002-2005 period

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

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

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Louisiana has become a national leader in sites selected for motion picture projects. These proposed rules aim to maintain and improve Louisiana's attractiveness for motion picture projects. These projects will stimulate demand for a variety of worker skills, and increase the amount of employment in the state.

Sherri McConnell
Director
0704#056

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System—Alternate Assessment Results and District Accountability (LAC 28:LXXXIII.3905, 4302, and 4313)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC Part Number LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's Accountability System is an evolving system with different components. The changes to Bulletin 111 revise the use of Alternative Assessment results in accountability as suggested by the LDE's Technical Advisory Committee. Section 4302 revises District Accountability to better align with the High School Redesign efforts initiated by the governor. Section 4313 defines the requirements for exiting District Improvement in anticipation of districts' first opportunity to exit.

**Title 28
EDUCATION**

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

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

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

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

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

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

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

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

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

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

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

C. - D. ...

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

Chapter 43. District Accountability

§4302. District Responsibility Indicators

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

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

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

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

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

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

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

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

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

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

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

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

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

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

District Teacher Certification Indicator Calculation					
Certification	Assigned Value	Percentage in Low Performing Schools	Points	Percentage in Other Schools	Points
Standard	1.0	92.4%	92.4	92.2%	92.2
Non-Standard	0.5	5.0%	2.5	4.8%	2.4
No Authority to Teach	0.0	2.6%	0.0	3.0%	0.0
Subtotals			94.9		94.6
Low Performing Weight	75%	x 94.9	Low Performing Weighted Value		71.2
Other Schools Weight	25%	x 94.6	Other Schools' Weighted Value		23.7
				Teacher Certification Indicator	94.9

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

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

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

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

a. Example

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

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

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

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

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

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

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

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

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

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

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

§4313. Corrective Actions

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

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

1. The DOE shall review each self-assessment.

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

C. - E. ...

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

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

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

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

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be

kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

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

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

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

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

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

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

Interested persons may submit written comments until 4:30 p.m., June 9, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 111—The Louisiana School, District, and State Accountability System—Alternate Assessment Results and District Accountability**

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

The changes to Bulletin 111 Chapter 3905 revise the use of Alternative Assessment results in accountability. Chapter 4302 is revised to better align District Accountability with the High School Redesign efforts initiated by the Governor, and changes to Chapter 4313 define the requirements for exiting District Improvement in anticipation of districts' first opportunity to exit. There are no estimated implementation costs (savings) to state or local governmental units as a result of these changes.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
0704#021

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

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

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

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

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration

§349. Complaint Procedures

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

B. The following definitions apply to this Section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

i. findings of fact and conclusions;

ii. the reasons for the final decision; and

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

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

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

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

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

a. technical assistance activities;

b. negotiations; and

c. corrective actions to achieve compliance.

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

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

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

a. date of receipt of complaint;

b. name of complainant;

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

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

e. date of resolution;

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

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

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

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

Family Impact Statement

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

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

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

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

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

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

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

Interested persons may submit written comments until 4:30 p.m., June 9, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

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

**RULE TITLE: Bulletin 741—Louisiana Handbook for
School Administrators—Complaint Procedures**

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

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

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

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

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

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

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

There is no effect on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
0704#019

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

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

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

Title 28

EDUCATION

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

Chapter 23. Curriculum and Instruction

§2375. Business Education

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

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

B. ...

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

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

§2381. Health Occupations

A. Health Occupations course offerings shall be as follows.

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

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

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

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

§2383. Marketing Education

A. Marketing Education course offerings shall be as follows.

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

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

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

§2387. Trade and Industrial Education

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

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

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

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 32:1415 (August 2006), LR 33:

Family Impact Statement

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

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

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

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

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

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

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

Interested persons may submit written comments until 4:30 p.m., June 9, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction**

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

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

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Beth Scioneaux
Acting Deputy Superintendent
0704#018

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Ancillary School Service Certificates (LAC 28:CXXXI.407, 408, 409, and 410)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel: §407,*

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

Title 28

EDUCATION

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

Chapter 4. Ancillary School Service Certificates

Subchapter A. Child Nutrition Program Supervisor

§407. Educational Interpreter

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

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

C. Provisional Educational Interpreter Certificate

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

a. complete an accredited interpreter preparation program with a minimum of a certificate of completion;

b. hold certification as a sign language interpreter/transliterator by a national or state organization or certifying body;

c. achieve an advanced level or higher, as measured by the Sign Language Proficiency Interview (SLPI) or Sign Communication Proficiency Interview (SCPI); or

d. pass the Pre-Hiring screening of the Educational Interpreter Performance Assessment (EIPA).

2. Renewal Guidelines

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

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

D. Qualified Educational Interpreter Certificate

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

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

a. pass the Educational Interpreter Assessment, Written Test;

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

3. Renewal Guidelines

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

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

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

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

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

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

§408. Educational Transliterater

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

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

C. Provisional Educational Transliterater Certificate

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

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

b. pass the Cued American English Competency Screening.

2. Renewal Guidelines

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

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

D. Qualified Educational Transliterater Certificate

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

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

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

2. Renewal Guidelines

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

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

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

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

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

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

§409. School Librarian

A. School Librarian—valid for five years.

1. Eligibility requirements:

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

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

2. Renewal guidelines:

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

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

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

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

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

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

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

B. Provisional Certification: Valid for five years.

1. Eligibility requirements:

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

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

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:281 (February 2007), repromulgated LR 33:

Family Impact Statement

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

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

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

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

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

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

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

Interested persons may submit written comments until 4:30 p.m., June 9, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel Ancillary School Service Certificates

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

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

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

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

This policy will have no effect on revenue collections.

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
0704#020

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Counselor K-12 (LAC 28:CXXXI.659)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel: §659, Counselor K-12 (Counselor in a School Setting)*. This revision in the requirements for add-on certification as a school counselor will allow three years of successful experience as a school counselor to substitute for the required three-semester-hour supervised practicum in a school setting. The proposed change will allow more candidates to meet the add-on certification requirements for school counselor and will increase the pool of certified school counselors in the state of Louisiana.

Title 28

EDUCATION

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

Chapter 6. Endorsements to Existing Certificates

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

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

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

B. - C. ...

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

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

Family Impact Statement

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

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

Interested persons may submit written comments until 4:30 p.m., June 9, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

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

**RULE TITLE: Bulletin 746—Louisiana Standards for
State Certification of School Personnel—Counselor K-12**

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

Beth Scioneaux
Acting Deputy Superintendent
0704#015

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Foreign Language Special Certificate PK-8 (LAC 28:CXXXI.311)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for

advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §311, Foreign Language Special Certificate PK-8. This revision in policy will allow the Foreign Language Special Certificate PK-8 to be valid for six years due to changes in the visa requirements. Changes in visa requirements adversely affect Foreign Associate Teachers who wish to continue to teach in Louisiana past their initial commitment. Federal visa requirements require applicants to be certified and employed for the period covered by the visa application. Applications must be submitted a year in advance. Current policy for the Foreign Language Special Certificate limits the length of visa validity for continuing Foreign Associate Teachers, to the detriment of the Foreign Language Model Program.

Title 28

EDUCATION

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

**Subchapter A. Standard Teaching Authorizations
§311. Foreign Language Special Certificate PK-8**

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

B. - D. 4. ...

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

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

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

Family Impact Statement

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

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

Interested persons may submit written comments until 4:30 p.m., June 9, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 746—Louisiana Standards for
State Certification of School Personnel
Foreign Language Special Certificate PK-8**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This revision in policy will allow the Foreign Language Special Certificate PK-8 to be valid for six years due to changes in the visa requirements. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This policy will have no effect on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
0704#017

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—School Library Service
(LAC 28:CXXXI.673)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel: §673. School Library Service*. This revision in the requirements for add-on certification as a school librarian will allow three years of successful experience as a school librarian to substitute for the required three-semester-hour school librarian practicum. The proposed change will allow more candidates to meet the add-on certification requirements for school librarian and will increase the pool of certified school librarians in the state of Louisiana.

**Title 28
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for
State Certification of School Personnel
Chapter 6. Endorsements to Existing Certificates
Subchapter C. All Other Teaching Endorsement Areas
§673. School Library Service**

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

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

NOTE: Repealed.

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

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

Family Impact Statement

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

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

Interested persons may submit written comments until 4:30 p.m., June 9, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

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

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This revision in the requirements for add-on certification as a school librarian will allow three years of successful experience as a school librarian to substitute for the required

Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection

Chapter 1. General Provisions

§102. Definitions and Abbreviations

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

* * *

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

* * *

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

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

Chapter 3. Licensing of Radioactive Material

Subchapter D. Specific Licenses

§361. Registration of Product Information

A. - F.2. ...

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

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

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

Subchapter Z. Appendices

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

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

three-semester-hour school librarian practicum. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
0704#016

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

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

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

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

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

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

Appendix G

Nationally Tracked Source Thresholds

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

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

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

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

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

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP044ft. Such comments must be received no later than May 30, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-

3168. Check or money order is required in advance for each copy of RP044ft. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

Herman Robinson, CPM
Executive Counsel

0704#028

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

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

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.1501, 1503, and 1505 (Log #OS075).

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

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

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 15. Permit Application Review

§1501. Applicability

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

B. ...

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

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

§1503. Definitions

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

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

Complete—repealed.

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

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

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

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

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

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

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

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

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

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

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

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

A. Administrative Completeness Review

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

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

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

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

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

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

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

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

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

B. Technical Review

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

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

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

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

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

C. Final Decision

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

F. Withdrawal of Permit Application

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

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

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

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

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

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

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

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

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

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS075. Such comments must be received no later than June 6, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of OS075. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Permit Application Review Timeline

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

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

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

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

Herman Robinson, CPM
Executive Counsel
0704#027

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Board of Tax Appeals

Procedure and Practice

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

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

Board of Tax Appeals Procedure and Practice Part I

Rule 2—Business Hours:

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

Rules Relating to Tax Matters

Rule 3—Pleadings in General:

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

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

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

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

The following heading is to be used on all pleadings:

* * *

Rule 6—Motions and Exception

Motions and exceptions are to be made in writing.

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

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

Rule 8—Hearings:

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

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

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

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

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

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

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

Rule 10—Subpoenas:

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

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

Rule 11—Memorandum and Briefs:

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

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

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

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

The Board's filing fee schedule is as follows:

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

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

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

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

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

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

**Part II
Waiver of Penalties**

Rule 17

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

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

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

**Part IV
Claims against the State**

Rule 19

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

* * *

Board May Conduct Investigation But Need Not Conduct a Hearing:

* * *

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

* * *

Effective Date

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

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

Gary J. Ortego
Chairman

0704#037

NOTICE OF INTENT

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

Peace Officer Training (LAC 22:III.4771)

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

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT

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

Chapter 47. Standards and Training

§4771. Emergencies and/or Natural Disasters

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

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

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

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

Michael A. Ranatza
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

RULE TITLE: Peace Officer Training

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

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

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Michael A. Ranatza
Executive Director
0704#010

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Board of Cosmetology

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

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

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

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

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XXXI. Cosmetologists

Chapter 3. Schools and Students

§309. Examination of Applicants

A. - E. ...

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

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

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

§321. Responsibilities of Students

A. - C. ...

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

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

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

Chapter 7. Safety and Sanitation Requirements

§701. Sanitation Requirements for Cosmetology Salons and Cosmetology Schools

A. - Q. ...

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

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

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

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

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

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

Jackie Burdette
Executive Director

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

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The is no anticipated increase in expenditures or savings due to these proposed rules except for the publication of the proposed rules estimated at \$300 in FY 07-08.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rules amend LAC 46:XXI.309, 321 and 701 to clarify that all applicants (approximately 15 per month) must follow uniform dress code while testing, that student hours earned become invalid after the passage of six years and to prohibit the use of products which licensees are not authorized to use, and to maintain safety and sanitation requirements.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition.

Jackie Burkett
Executive Director
0704#025

Robert E. Hosse
Staff Director
Legislative Fiscal Office

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

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and as authorized by R.S. 6:551.7 and 6:551.24, the Commissioner of the Office of Financial Institutions gives notice of intent to promulgate a Rule to provide for the administration and regulatory oversight of the Louisiana International Banking Statutes (R.S. 6:551.1 et seq.). The proposed Rule establishes fees and assessments to cover anticipated regulatory costs.

There is no family impact associated with this proposed Rule, as provided for in R.S. 49:972.

**Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES AND UCC
Part III. Banking**

**Chapter 11. Louisiana International Banking
§1101. General Provisions**

A. The Depository Institutions' Section of the Louisiana Office of Financial Institutions ("OFI") is funded entirely through assessments and fees levied on state-chartered depository institutions for services rendered. All fees detailed in this rule are nonrefundable and must be paid at the time the application is filed with this office. An applicant may request that a reduced fee be charged for the simultaneous filing of multiple applications. This privilege will not be afforded to applications that are not expected to be consummated within 12 months of the filing date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:551.7 and 6:551.24.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:

§1103. Fees and Assessments

A. Pursuant to the authority granted under R.S. 6:551.7 and 6:551.24, the following fee and assessment structure is hereby established to cover necessary costs associated with the administration of the International Banking Statutes, R.S. 6:551.1 et seq.

Description	Fee
Application for a foreign bank, bank holding company, or financial holding company, to establish and operate a subsidiary bank in Louisiana.	\$10,000
Application for a foreign bank to establish and operate a branch, an international banking facility, a representative office, or an agency in Louisiana.	\$2,000
Application for a U.S. bank or foreign bank to organize or acquire a subsidiary to engage in international banking activities specifically authorized in the Edge Act or to operate as an agreement corporation.	\$2,000
Application for a foreign bank to establish and operate an administrative office in Louisiana.	\$1,000
Examination fee for each foreign bank, branch, agency, representative office, international banking facility, administrative office, or Edge Act subsidiary operating in Louisiana. Fee per examiner.	\$50 per hour
Examination fee for each branch, agency, representative office, international banking facility, administrative office, or Edge Act subsidiary of an out-of-state foreign bank. This fee shall be billed to the primary state regulator of the out-of-state foreign bank being examined, and due upon receipt of the OFI invoice.	The greater of \$50 per hour per examiner or the actual expenses incurred by this office to conduct or assist in conducting such examinations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:551.7 and 6:551.24.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 35:

All interested persons are invited to submit written comments on this proposed Rule no later than 4:30 p.m., May 10, 2007, to John D. Fields, Deputy Chief Examiner, Office of Financial Institutions, Post Office Box 94095,

Baton Rouge, LA 70804-9095, or by hand-delivery to 8660 United Plaza Boulevard, Second Floor, Baton Rouge, LA 70809.

John Ducrest, CPA
Commissioner

Louisiana in order to provide services for its international customers.

John Ducrest, CPA
Commissioner
0704#067

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Louisiana International Banking**

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Pharmacy**

Prescription Monitoring Program
(LAC 46:LIII.Chapters 29 and 33)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no net implementation costs to state or local governmental units associated with this proposal. Current administrative costs will be reallocated to include activities associated with international banking in Louisiana as provided under LSA-R.S. 6:551.1 et seq.). Administrative costs associated with performing regulatory functions shall be funded by assessments and fees collected from the international bank participants. The reason there is no net change in expenditures to OFI is that any reductions in expenditures for other regulatory areas as a result of the reallocation of staff to international banking activities will result in a reduction of assessments for other depository institutions. OFI operates on an actual cost basis. In accordance with LAC 10:303(H), any amounts collected in excess of actual expenditures associated with other depository institutions, the OFI shall credit or refund the collected fees on a pro-rata basis to the affected institutions.

The Louisiana international banking statutes provides the Commissioner of Financial Institutions the authority to promulgate rules necessary to establish a reasonable fee schedule to fund the cost of administration and regulatory oversight. The proposed rule establishes a fee schedule for applications and examinations associated with permissible international banking activities in Louisiana.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no net impact on the revenue collections of state or local governmental units. The potential fee income will be utilized to cover anticipated administrative and examination costs to supervise and regulate international banking activities in Louisiana. We do not anticipate a significant volume of international banking activity; therefore we do not anticipate a significant increase in administrative costs to supervise this area. LSA-R.S. 6:551.11 also provides for an annual certificate of authority renewal fee of \$1,000 for approved international banking facilities that should aid in covering anticipated administrative expenses.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Entities seeking to conduct international banking activities in Louisiana will be required to pay fees established by this proposed rule for applications and examinations. Individuals and businesses gaining access to financial institutions domiciled in another country could be expected to generate additional economic activity within Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not expected to have any significant impact on competition; however, any increase in international banking activity in Louisiana could result in a need for the hiring of additional employees that would be located in

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to promulgate an entirely new chapter of regulations relative to the Prescription Monitoring Program. This program was authorized by Act 676 of the 2006 Louisiana Legislature. Further, the board gives notice of its intent to re-designate the current Chapter 29, Severability as Chapter 33, Severability, with no changes to the contents of that Chapter.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 29. Prescription Monitoring Program

Subchapter A. General Operations

§2901. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them unless the context clearly indicates otherwise.

Administer or Administration—the direct application of a drug to the body of a patient by injection, inhalation, ingestion, or any other means.

Advisory Council—the entity established in R.S. 40:1005.

Board—the Louisiana Board of Pharmacy.

Controlled Substance—any substance or drug defined, enumerated, or included in federal or state statute or rules, 21 CFR 1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations or statute. *Controlled substance* shall not include distilled spirits, wine, malt beverages, or tobacco.

Dispense or Dispensing—the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient.

Dispenser—a person authorized by this state to dispense or distribute to the ultimate user any controlled substance or drug monitored by the program, but shall not include any of the following:

a. a pharmacy permitted by the board as a hospital pharmacy that dispenses or distributes any controlled substance or drug monitored by the program for the purposes of inpatient health care;

b. a practitioner who dispenses or distributes no more than a single 48 hour supply of such controlled substance or drug to a patient prior to, or subsequent to, performing an actual procedure on that patient;

c. practitioner or other authorized person who administers such controlled substance or drug upon the lawful order of a practitioner;

d. a wholesale distributor of such controlled substance or drug that is credentialed by the Louisiana State Board of Wholesale Drug Distributors.

Distribute or Distribution—the delivery of a drug or device other than by administering or dispensing.

Drug—any of the following:

a. any substance recognized as a drug in the official compendium, or supplement thereto, designated by the board for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

b. any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals;

c. any substance other than food intended to affect the structure or any function of the body of humans or other animals.

Drugs of Concern—drugs other than controlled substances as defined by rule which demonstrate a potential for abuse.

Patient—the person or animal who is the ultimate user of a controlled substance or drug monitored by the program for whom a prescription is issued and for whom a controlled substance or drug is dispensed.

Prescriber—a licensed health care professional with prescriptive authority.

Prescription Monitoring Information—data submitted to and maintained by the prescription monitoring program.

Prescription Monitoring Program or *PMP*—the program established in R.S. 40:1004.

Procedure—any dental or medical practice or process described in the current year's version of the American Dental Association's *Current Dental Terminology* or the American Medical Association's *Code of Procedural Terminology*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:

§2903. Authority for Program Operation

A. The board shall establish and maintain, in consultation with and upon the recommendation of the advisory council, an electronic system for the monitoring of controlled substances and drugs of concern dispensed in the state or dispensed to an address in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1004.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:

§2905. Authority to Engage Staff

A. The board shall have the authority to engage a program director and sufficient number of other personnel as may be necessary to accomplish the mission of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1179.F.(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:

§2907. Authority to Engage Vendors

A. The board shall have the authority to engage vendors to facilitate the collection of the prescription monitoring program data and to facilitate access to the program data by authorized users.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1012.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:

§2909. Advisory Council

A. The advisory council shall consist of the following members, each of whom may appoint a designee:

1. the President of the Louisiana State Board of Medical Examiners;
2. the President of the Louisiana State Board of Dentistry;
3. the President of the Louisiana State Board of Nursing;
4. the President of the Louisiana State Board of Optometry Examiners;
5. the President of the Louisiana State Board of Examiners of Psychologists;
6. the President of the Louisiana Academy of Physician Assistants;
7. the President of the Louisiana Board of Pharmacy;
8. the Superintendent of the Louisiana State Police;
9. the Administrator of the United States Drug Enforcement Administration;
10. the Speaker of the Louisiana House of Representatives;
11. the President of the Louisiana Senate;
12. the Chairman of the House Committee on Health and Welfare;
13. the Chairman of the Senate Committee on Health and Welfare;
14. the Secretary of the Department of Health and Hospitals;
15. the President of the Louisiana State Medical Society;
16. the President of the Louisiana Dental Association;
17. the President of the Louisiana Association of Nurse Practitioners;
18. the President of the Optometry Association of Louisiana;
19. the President of the Louisiana Pharmacists Association;
20. the President of the Louisiana Independent Pharmacies Association;
21. the President of the National Association of Chain Drug Stores;
22. the President of the Louisiana Sheriffs' Association;
23. the President of the Louisiana District Attorneys Association;
24. the President of the Pharmaceutical Research and Manufacturers of America;
25. the President of the Louisiana Academy of Medical Psychologists.

B. The members of the advisory council shall serve at the pleasure of their respective appointing authorities, 11 of whom shall constitute a quorum for the transaction of business. The members shall elect a chairman and vice chairman whose duties shall be established by the advisory

council. The board shall fix a time and place for regular meetings of the advisory council, which shall meet at least quarterly. The advisory council shall establish policies and procedures necessary to carry out its duties.

C. The board shall seek, and the advisory council shall provide, information and advice regarding the development and operation of the electronic monitoring system, including but not limited to the following:

1. which controlled substances should be monitored;
2. which drugs of concern demonstrate a potential for abuse and should be monitored;
3. design and implementation of educational courses identified in R.S. 40:1008;
4. the methodology to be used for analysis and interpretation of prescription monitoring information;
5. design and implementation of a program evaluation component;
6. identification of potential additional members to the advisory council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1005.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:

Subchapter B. Data Collection

§2911. Reporting of Prescription Monitoring Information

A. Each dispenser shall submit to the board information regarding each prescription dispensed for a controlled substance.

B. Each dispenser shall submit the required information by electronic means on a frequency set by the board, which shall be no less than every 14 days and no more than every seven days.

C. If the dispenser is unable to submit prescription information by electronic means, he may apply to the board for a waiver. The board may grant a waiver to that requirement; if so, the waiver shall state the format and frequency with which the dispenser shall submit the required information. The waiver shall expire one year after the date of issue, unless terminated sooner by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:

§2913. Required Data Elements

A. The information submitted for each prescription shall include data relative to the identification of the following elements of the transaction. To the extent possible, the data shall be transmitted in the format established by the American Society for Automation in Pharmacy (ASAP) Telecommunications Format for Controlled Substances in May 1995.

1. Prescriber Information:
 - a. name of prescriber;
 - b. address of prescriber;
 - c. telephone number of prescriber;
 - d. United States Drug Enforcement Administration (DEA) registration number.
2. Patient information:
 - a. name of patient;
 - b. address of patient;
 - c. date of birth of patient;
 - d. Social Security number of patient.

3. Prescription information:
 - a. identification number of prescription;
 - b. date of issuance;
 - c. date of fulfillment;
 - d. number of refills authorized on original prescription;
 - e. method of payment for prescription (cash, insurance, or government subsidy).

4. Drug information:
 - a. National Drug Code (NDC) number;
 - b. name of drug;
 - c. dosage form of drug;
 - d. strength of drug;
 - e. quantity dispensed.

5. Dispenser information:
 - a. name of pharmacy or practitioner;
 - b. address of dispenser;
 - c. telephone number of dispenser;
 - d. DEA registration number;
 - e. national practitioner identification number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:

§2915. Failure to Report Prescription Information

A. A dispenser who fails to submit prescription monitoring information to the board as required shall be referred to the appropriate professional licensing, certification, or regulatory agency for administrative sanctions as deemed appropriate by that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:

Subchapter C. Access to Prescription Monitoring Information

§2917. Authorized Direct Access Users of Prescription Monitoring Information

A. The following persons may access prescription monitoring information in the same or similar manner, and for the same or similar purposes, as those persons are authorized to access similar protected health information under federal and state law and regulation:

1. persons authorized to prescribe or dispense controlled substances or drugs of concern, for the purpose of providing medical or pharmaceutical care for their patients;
2. designated representatives from the professional licensing, certification, or regulatory agencies charged with administrative oversight of those professionals engaged in the prescribing or dispensing of controlled substances or other drugs of concern;
3. designated representatives from the Louisiana Medicaid program regarding Medicaid program recipients;
4. designated representatives of the board or any vendor or contractor establishing or maintaining the prescription monitoring program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:

§2919. Registration Procedures for Authorized Direct Access Users

A. Authorized users of prescription monitoring information shall comply with the following requirements to register with the board, in order to receive the appropriate credentials to access prescription monitoring information.

1. The applicant shall successfully complete the program's orientation course, and attach evidence of same to his application to the program.

2. The applicant shall file an application with the program, using the form supplied by the program for that purpose.

3. The board shall verify the practitioner applicant is in possession of a valid license to prescribe or dispense controlled substances, or in the case of an agency applicant, the board shall verify agency representation.

4. Upon verification of all requirements, the board shall issue the appropriate credential necessary to access prescription monitoring information.

5. Upon receipt of information that an authorized user no longer possesses authority to prescribe or dispense controlled substances, the program shall terminate the user's credentials to access prescription monitoring information. If or when the user's authority to prescribe or dispense controlled substances is reinstated, the program may reinstate the user's credentials to access prescription monitoring information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:

§2921. Methods of Access to Prescription Monitoring Information

A. Prescribers and dispensers, once properly registered, may solicit prescription monitoring information from the program concerning their patients. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

B. Designated representatives from agencies charged with administrative oversight of prescribers and dispensers of controlled substances may solicit prescription monitoring information from the program concerning specific investigations of prescribers or dispensers. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

C. Designated representatives of the Louisiana Medicaid program, once properly registered, may solicit prescription monitoring information from the program concerning specific recipients. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

D. Designated representatives of the board, or any vendor or contractor establishing or maintaining the program, once properly registered, may solicit prescription monitoring information from the program for the purpose of establishing or maintaining the program's database.

E. Upon receipt of one of the following methods of application by local, state, or federal law enforcement or prosecutorial officials, the program may provide prescription monitoring information:

1. a court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;

2. a grand jury subpoena; or

3. an administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided by law enforcement to the board, and further, provided all of the following:

a. the information sought is relevant and material to a legitimate law enforcement inquiry;

b. the request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought;

c. de-identified information, or limited information that does not identify or could not reasonably lead to the identification of an individual patient, could not reasonably be used.

F. Individuals may solicit their own prescription monitoring information from the program. To prevent inappropriate access to such information, the requestor shall personally appear at the program office and produce positive photo identification at the time of their request. The program shall furnish a single copy of the report responding to such request at no charge to the individual.

G. Program personnel, once properly registered, may solicit prescription monitoring information from the program's database for the purpose of responding to legitimate inquiries from authorized users or other individuals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:

§2923. Unlawful Use or Disclosure of Prescription Monitoring Information

A. If the program receives evidence of inappropriate or unlawful use or disclosure of prescription monitoring information by an authorized user, the program shall refer that user to the appropriate professional licensing, certification, or regulatory agency for administrative sanctions as deemed appropriate by that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:

Subchapter D. Reports

§2925. Release of Prescription Monitoring Information to Other Entities

A. The program shall provide prescription monitoring information to public or private entities, whether located in or outside of the state, for public research, policy, or educational purposes, but only after removing information that identifies or could reasonably be used to identify individual patients or persons who received prescriptions from prescribers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:

§2927. Legislative Oversight

A. The board shall report to the appropriate legislative oversight committee on a periodic basis, but in no case less than annually, the cost benefits and other information relevant to policy, research, and education involving controlled substances and other drugs of concern monitored by the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:

§2929. Program Evaluation

A. The board shall, in consultation with and upon recommendation of the advisory council, design and implement an evaluation component to identify cost benefits of the prescription monitoring program and other information relevant to policy, research, and education involving controlled substances and drug monitored by the prescription monitoring program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:

Chapter 33. Severability

§3301. Severability

A. In the event any rule, sentence, clause, or phrase or any of these rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof, and such remaining rules or portions thereof shall remain of full force and effect, as if such rule or portions thereof so determined, declared, or adjudged invalid or unconstitutional were not originally a part hereof. It is the intent of the Louisiana Board of Pharmacy to establish rules and regulations that are constitutional and enforceable so as to safeguard the health, safety, and welfare of the people of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2114 (October 2003), effective January 1, 2004, repromulgated LR 33:

Family Impact Statement

In compliance with Act No. 1183 of the 1999 Louisiana Legislature, the impact of this proposed Rule on the family has been considered. One of the goals of the program is to identify persons who may be in need of treatment for substance abuse or addiction. To the extent that persons not yet so identified are able to obtain referral and treatment, the board believes that this program will have a positive impact on the functioning of the family, with probable beneficial effects on family stability and family earnings. The board does not anticipate any direct effects of this proposed rule on the ability of the family to educate and supervise their children.

Interested persons may submit written comments to Malcolm J Broussard, Executive Director, Louisiana Board of Pharmacy, 5615 Corporate Blvd., 8th Floor, Baton Rouge, LA 70808-2537. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, May 30, 2007 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 noon that same day.

Malcolm J Broussard
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Prescription Monitoring Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that implementation of the proposed rule will cost the agency \$713,120 (includes \$1,000 for printing costs) in FY 07, and then \$437,120 in subsequent fiscal years.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Board was awarded a \$400,000 federal grant to help defray some of the implementation costs in FY 07. The enabling legislation authorizes the Board to levy and collect an annual fee of \$25 from most prescribers and all pharmacies; the estimated annual revenue from that fee is \$437,675 (\$25 x 17,507 providers).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule, pursuant to Act 676 of the 2006 Regular Session of the Legislature, will require those dispensers of controlled dangerous substances and other drugs of concern to report their transactions to the program as required by federal rules to collect and maintain the information being requested by the program. Due to the capacity for electronic transmission of the data, we estimate minimal costs for the practitioners and pharmacies reporting their data to the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Since all dispensers of controlled dangerous substances and other drugs of concern will be required to report such transactions to the program, we estimate no effect on competition among such dispensers. Further, all such parties are already required to collect and maintain the information requested by the program. Thus, we estimate no effect on employment at such dispensers.

Malcolm J. Broussard
Executive Director
0704#065

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Physical Therapy Examiners**

Licensure, Certification, and Practice
(LAC 46:LIV.121, 127, 155, 167-173,
303-311, 315, 321, 323, 327)

Notice is hereby given, in accordance with R.S. 49:950 et seq., and the Administrative Procedure Act, that the Louisiana State Board of Physical Therapy Examiners (Board), pursuant to the authority vested in the board by R.S. 2401.2A(3) and the provisions of the Administrative Procedures Act, hereby amends its existing rules as set forth below.

The Louisiana State Board of Physical Therapy Examiners is proposing rule amendments to clarify the application of the Physical Therapy Practice Act. The intent of the amendments is to clarify and enhance rules applicable to the supervision of Physical Therapy Assistants and other support personnel and to provide effective documentation of such supervision. Additionally, the proposed Rule will reduce the

potential for noncompliance with the Practice Act, thusly decreasing any potential expenses for disciplinary actions or loss of income as a result of disciplinary actions. Licensees and employers may incur a small indeterminable increase in costs for documenting supervision conferences in patient records as a result of the proposed Rule.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIV. Physical Therapy Examiners

Subpart 1. Licensing and Certification

Chapter 1. Physical Therapists and Physical Therapist Assistants

Subchapter D. Licensure by Reciprocity

§121. Qualifications for Licensure by Reciprocity

A. ...

B. A foreign Physical Therapy graduate who meets the requirements of Subsections 115.A and 121.A and who has practiced as a licensed physical therapist in another state for at least one year, may, with acceptable documentation of clinical experience, be eligible for licensure by reciprocity as a physical therapist at the discretion of the board. Licensure under this Subsection waives the period of supervised clinical practice set forth in Paragraph 115.A.3 of these rules.

C. To be eligible for licensure under Subsections A and B, all applicants shall have met the continuing education requirements contained in the Practice Act and/or the board rules within the 12 months preceding their application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 19:208 (February 1993), LR 33:

Subchapter E. Application

§127. Additional Requirements for Foreign Graduates

A. ...

B. As a condition to the board's consideration of a foreign graduate application, the board must receive a comprehensive credential evaluation certificate, based upon the Credentialing Coursework Tool, from an approved credentialing agency which includes, but is not limited to, the Foreign Credentialing Commission on Physical Therapy (FCCPT).

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 19:208 (February 1993), LR 26:1444 (July 2000), LR 33:

Subchapter G. Temporary Permit

§155. Permit Pending Re-Examination; Examination Limit; Additional Requirements

A. An applicant who possesses all of the qualifications for licensure prescribed by §107 of this Chapter, except for Paragraphs 107.A.5 and 107.B.5, who has once failed the licensing examination, and who has applied to the board for re-examination within 10 days of receipt of written notice of

failure and completed all requirements for re-examination shall be issued a new temporary permit to be effective for no more than 60 days.

B. If an applicant has failed to achieve a passing score on the required examination after three attempts, the applicant may again be examined only upon the board's approval, which approval may be conditioned upon the prior successful completion by the applicant of any additional education or clinical training prescribed by the board.

C. A physical therapist or physical therapist assistant holding a temporary permit issued under this Section may practice physical therapy only with continuous supervision as defined in Subsection 305.A.

D. A temporary permit issued under this Section shall expire upon the earliest of:

1. the expiration of the time period for which the permit was issued;

2. actual receipt by the permit holder of notice from the board that he has failed to achieve a passing score on the licensing examination;

3. the licensee's failure to claim notice of his failure, which was mailed to the licensee by certified mail, return receipt requested, within the time allowed after being notified by the United States Postal Service; or

4. failure of a permit holder to appear for and take the licensing examination within the 60 day permit period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), LR 19:208 (February 1993), LR 26:1446 (July 2000), LR 33:

Subchapter H. License and Permit Issuance, Termination, Renewal and Reinstatement

§167. Reinstatement of License

A. - C.2. ...

D. To be eligible for license reinstatement under this Section, all applicants shall have met the continuing education requirements contained in the Rules within the 12 months preceding their application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 28:1979 (September 2002), LR 33:

Subchapter I. Continuing Education

§169. Requirements

A. Unless exempted under §173, licensees shall successfully complete, document and report to the board at least 1.2 units, or 12 hours of acceptable continuing education credit during each calendar year.

B. - B.3.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), amended LR 17:664 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 26:1446 (July 2000), LR 28:1980 (September 2002), LR 33:

§171. Report Requirements

A. It is the responsibility of each licensee to assure that his continuing education hours are timely reported to the board.

B. The reporting of continuing education hours by course sponsors or licensees shall be made only on forms approved and available by the board. Forms filed by course sponsors or licensees shall be legibly printed or typewritten, and shall be completed and signed by the course sponsor or licensee.

C. Continuing education reporting forms shall be filed with the board no later than December 31 of each year.

D.1. The filing date of continuing education reporting forms, if mailed and properly addressed to the board with sufficient postage, shall be the earliest of:

- a. the legible date of the United States Postal Service postmark; or
- b. an official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof; or
- c. the date of actual receipt by the board.

2. Legal holidays and days on which the office of the board is officially closed shall not extend the filing deadline specified in Subsection C hereof.

E. Original continuing education documentation, including, but not limited to, certificates of participation, signed by course instructors verifying course attendance and completion, and official college coursework transcripts shall be retained by course sponsors and licensees for a period of three years. Upon request, course sponsors and licensees shall supply the board with such documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:665 (July 1991), amended LR 19:208 (February 1993), LR 33:

§173. Exemptions

A. Physical therapists or physical therapist assistants licensed in Louisiana are exempt from the Subchapter I continuing education requirements during the calendar year in which they graduate from a program accredited pursuant to the Practice Act.

B. Upon approval by the board of a request made in compliance with Subsection C, the board may extend the period for compliance or exempt the following from compliance with the Subchapter I continuing education requirements:

1. licensees on extended active military service for a period in excess of three months during the applicable reporting period; or
2. licensees who are unable to fulfill the requirement because of illness or other personal hardship.

C. Written requests for an exemption under Subsection B, including supporting documentation, must be received by the board at least 90 days prior to the end of the calendar year for which the exemption is sought, or immediately after the licensee becomes aware of the facts or circumstances upon which the exemption is sought, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR

17:665 (July 1991), amended LR 19:208 (February 1993), LR 21:394 (April 1995), LR 33:

Subpart 2. Practice

Chapter 3. Practice

Subchapter A. General Provisions

§303. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified.

* * *

Nursing Home—place of residence and not a health care facility.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), LR 21:394 (April 1995), LR 24:39 (January 1998), LR 33:

§305. Special Definition: Practice of Physical Therapy

A. As used in the definition of *practice of physical therapy* set forth in the Physical Therapy Practice Act, and as used in this Chapter, the following terms shall have their meanings specified.

Consultative Services—providing information, advice, or recommendations with respect to physical therapy, but does not include the administration of physical therapy treatment, and therefore, can be performed without referral or prescription.

Continuous Supervision—responsible, continuous, on-the-premises observation and supervision by a licensed physical therapist of the procedures, functions and practice rendered by a physical therapy technician; student; physical therapist assistant permittee pending licensure by examination or re-examination; and physical therapist temporary permittee who has once failed the licensing examination.

On Premises—that the supervising physical therapist is personally present in the treating facility and immediately available to the treatment area.

Passive Manipulation—manipulation or movement of muscular or joints other than by the spontaneous function of the body or active effort on the part of the patient.

Periodic Supervision—as related to:

a. *temporary permit* holders who are graduates of APTA accredited programs, shall mean:

i. daily face to face or phone communication between the supervising physical therapist and permit holders; and

ii. on premises observation of patient care in each of the permittees' practice locations, a minimum of two hours per day with a minimum total of 10 hours per week;

b. foreign physical therapy graduates, holding a temporary permit, shall mean daily face to face communication and on premises observation of patient care in each of the permittees' practice settings for at least 1/2 of the hours worked each day until the permittee passes the licensing exam. After passing the examination, the permittee shall require on premises observation of patient care in each practice setting a minimum of one hour per day with a minimum total of five hours per week. If the permittee fails

the examination on his first attempt, he shall require continuous supervision;

c. licensed physical therapist assistants and physical therapist assistant permittees pending approval of licensure by reciprocity shall vary according to the treatment facility as outlined in §321.

Physical Therapy Evaluation—the evaluation of a patient by the use of physical and mental findings, objective tests and measurements, patient history, and their interpretation, to determine musculoskeletal and biomechanical limitations, to determine his suitability for and the potential efficacy of physical therapy and the establishment or modification of treatment goals and a physical therapy treatment program.

Physical Therapy Supportive Personnel

a. *Physical Therapy Technician*—a worker not licensed by this board who functions in a physical therapy clinic, department or business and assists with preparation of the patients for treatment and with limited patient care;

b. *Physical Therapist Assistant*—a person licensed by the board who is a graduate of an associate degree program in physical therapist assisting accredited by the Commission on Accreditation of Physical Therapy Education (CAPTE) or was granted licensure pursuant to R.S. 37:2403.D;

c. the level of responsibility assigned to physical therapy supportive personnel is at the discretion of the physical therapist, who is ultimately responsible for the care provided by these individuals. Supportive personnel may perform only those functions for which they have documented training and skills. The prohibitions for physical therapy supportive personnel shall include, but not be limited to, interpretation of referrals; performance of evaluations; initiation or adjustment of treatment programs; assumption of the responsibility for planning patient care; or any other matters as determined by the board. The physical therapist shall only delegate portions of the treatment session to a technician only after the therapist has assessed the patient's status.

Preventative Services—the use of physical therapy knowledge and skills by a physical therapist to provide education or activities in a wellness setting for the purpose of injury prevention, reduction of stress and/or the promotion of fitness, but does not include the administrations of physical therapy treatment and, therefore, can be performed without referral or prescription.

Topical Agents/Aerosols—topical medications or aerosols used in wound care which are obtained over the counter or by physician prescription or order.

Wound Care and Debridement—a physical therapist, physical therapist permittee or student physical therapist may perform wound debridement and wound management that includes, but is not limited to, sharps debridement, debridement with other agents, dry dressings, wet dressings, topical agents including enzymes, and hydrotherapy. A physical therapist assistant, physical therapist assistant permittee or student physical therapist assistant shall not perform sharps debridement. The board's licensees and permittees, as well as students and supportive personnel, shall comply with the supervision requirements set forth in §321.

Written Treatment Plan or Program—written statements made by a physical therapist that specify the measurable goals, specific treatment to be used, and proposed duration and frequency of treatment. The written treatment plan or program is an integral component of a physical therapy evaluation, however, the written treatment plan or program must be completed by the physical therapist prior to delegation of appropriate treatment of a physical therapist assistant.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:666 (July 1991), LR 19:208 (February 1993), LR 21:1243 (November 1995), LR 24:40 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 33:

Subchapter B. Prohibitions

§307. Unauthorized Practice

A. ...

B. A physical therapist shall exercise sound professional judgment based upon his knowledge, skill, education, training, and experience, and shall perform only those procedures for which he is competent. If diagnostically or otherwise the physical therapist becomes aware of findings and/or the need for treatment which are outside the scope of the physical therapist's knowledge, experience, or expertise, the physical therapist shall notify the patient/client and refer the patient/client to an appropriate practitioner.

C. A physical therapist shall use the letters "P.T." in connection with his name or place of business to denote licensure. A physical therapist assistant shall use the letters "P.T.A." in connection with his name to denote licensure. No person shall hold himself out to the public, an individual patient, a physician, dentist or podiatrist, or to any insurer or indemnity company or association or governmental authority as a physical therapist, physiotherapist or physical therapist assistant, nor shall any person directly or indirectly identify or designate himself as a physical therapist, physiotherapist, registered physical therapist, licensed physical therapist, physical therapist assistant, or licensed physical therapist assistant, nor use in connection with his name the letters, P.T., L.P.T., R.P.T., or P.T.A., or any other words, letters, abbreviations, insignias, or sign tending to indicate or imply that the person constitutes physical therapy, unless such person possesses a current license or temporary permit duly issued by the board.

D. A physical therapy student who is pursuing a course of study leading to a degree as a physical therapist in a professional education program approved by the board as is satisfying supervised clinical education requirements related to his physical therapy education shall use the letters "S.P.T." in connection with his name while participating in this program. A physical therapist assistant student who is pursuing a course of study leading to a degree as a physical therapist assistant in a professional education program approved by the board and is satisfying supervised clinical education requirements related to his physical therapist assisting education shall use the letters "S.P.T.A." in connection with his name while participating in this program.

E. A licensed physical therapist is authorized to engage in the practice of physical therapy as set forth in the Physical Therapy Practice Act and the board's rules which includes, but is not limited to, the performance of physical therapy evaluations, consultative services, wound care and debridement, the storage and administration of aerosol and topical agents, the performance of passive manipulation, and preventative services all as more fully defined in §305.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 21:395 (April 1995), LR 24:40 (January 1998), LR 26:1447 (July 2000), LR 33:

§309. Exemptions

A. The prohibitions of §307 of this Chapter shall not apply to a person employed by any department, agency, or bureau of the United States Government when acting within the course and scope of such employment, nor shall they prohibit a person from acting under and within the scope of a license issued by an agency of the state of Louisiana.

B. A student shall be exempt from licensure when pursuing a course of study leading to a degree in physical therapy or physical therapist assisting in a professional education program approved by the board and is satisfying supervised clinical education requirements related to his education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 24:40 (January 1998), LR 33:

§311. Prohibitions: Licensed or Temporary Permit Physical Therapists

A. A physical therapist shall not:

1. - 3. ...

4. undertake to concurrently supervise more than three physical therapy technicians and/or physical therapist assistants, so that the ratio of supportive personnel to supervising licensed physical therapists is not in excess of three-to-one.

B. A physical therapist shall not abuse or exploit the physical therapy provider/patient or client relationship, or his relationship with peers or subordinates for any purpose, including for the purpose of securing personal compensation, gratification, or gain or benefit of any kind or type, any or all of which are unrelated to the provision of physical therapy services, including engaging in inappropriate sexual or inappropriately intimate conduct, which shall include, but not be limited to:

1. engaging in or soliciting a sexual or inappropriately intimate relationship, whether consensual or non-consensual, while a physical therapist or physical therapist assistant/patient or client relationship exists. Termination of the physical therapist/patient or client relationship does not eliminate the possibility that a sexual or inappropriately intimate relationship may exploit the vulnerability of the former patient/client;

2. making sexual advances, requesting or offering sexual favors or engaging in any other verbal conduct or

physical contact of a sexual or inappropriately intimate nature with patients or clients; or

3. intentionally viewing a completely or partially disrobed patient in the course of treatment, if such viewing is not reasonably related to patient diagnosis or treatment under current practice standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:667 (July 1991), LR 19:208 (February 1993), LR 21:1243 (November 1995), LR 33:

Subchapter C. Supervised Practice

§315. Scope of Chapter

A. ...

B. Before working in a school or home health setting, a physical therapist assistant shall have one year of supervised work experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), LR 33:

§321. Supervision Requirements

A. Licensed Physical Therapist Assistant

1. The level of responsibility assigned to the physical therapist assistant pursuant to §321.A is at the discretion of the physical therapist who is ultimately responsible for the care provided by this individual.

2. In acute care facilities, rehabilitation facilities, skilled nursing facilities and out-patient facilities, the supervising physical therapist shall:

a. perform an evaluation and set up a written treatment plan on each patient prior to implementation of treatment;

b. treat and reassess the patient and document on at least every sixth treatment day, but not less than once per month;

c. treat and assess the patient at discharge and write a discharge summary;

d. be on premises weekly (any seven consecutive days) for at least one-half of the physical therapy treatment hours in which the physical therapist assistant is rendering physical therapy treatment;

e. be readily accessible by beeper or phone and available to the patient by the next scheduled treatment session upon request of the patient or physical therapist assistant.

3. In school and home health settings, the supervising physical therapist shall:

a. perform an evaluation and set up a written treatment plan on each patient prior to implementation of treatment;

b. treat and reassess the patient and document on at least every sixth treatment day but not less than once per month;

c. treat and assess the patient at discharge and write a discharge summary;

d. conduct, once weekly and document, a face to face patient care conference with each physical therapist

assistant to review progress and modification of treatment programs for all patients;

e. be readily accessible by beeper or phone and available to the patient by the next scheduled treatment session upon request of the patient or physical therapist assistant.

4. In client preventative services rendered by a licensed physical therapist assistant, the supervising physical therapist:

a. shall perform an initial screening to determine if an individual qualifies for preventative services and document;

b. shall provide education or activities in a wellness setting through the establishment of a program for the purpose of injury prevention, reduction of stress and/or the promotion of fitness;

c. shall be readily accessible by beeper or mobile phone;

d. shall conduct and document a face to face conference with the physical therapist assistant regarding each client at least every 30 days commencing with the initiation of the preventative services for that client; and

e. may delegate only those functions to a physical therapist assistant for which he has documented training and skills.

B. - B.3. ...

C. Physical Therapy Technician

1. The level of responsibility assigned to a physical therapy technician is at the discretion of the physical therapist who is ultimately responsible for the care provided by the supervised individual(s).

2. In all practice settings, during the provision of physical therapy services, the supervising physical therapist shall provide continuous, in-person supervision of the physical therapy technician.

3. A physical therapy technician may assist a physical therapist assistant only with those aspects of patient treatment which have been assigned to the physical therapy technician by a physical therapist.

4. To ensure the safety and welfare of a patient during ambulation, transfers, or functional activities, the physical therapist assistant may utilize one or more physical therapy technicians for physical assistance.

5. The supervising physical therapist shall provide continuous, in-person supervision of client preventative services rendered by a physical therapy technician as follows:

a. perform and document an initial screening to determine if an individual qualifies for preventative services;

b. establish a wellness program, including education and activities, to promote injury prevention, reduction of stress and/or fitness;

c. delegate only those functions to a physical therapy technician for which the physical therapist has documented the training and skills of the physical therapy technician;

d. be available to the technician for direct and immediate verbal clarification.

D. Student. The supervising physical therapist shall provide continuous, on-premises supervision of a physical therapy or physical therapist assistant student in all practice settings.

E. Supervision Ratio. In any day, a supervising physical therapist shall not provide supervision for more than five individuals, nor exceed the following limitations as to supervised personnel:

1. more than three physical therapist assistants and/or technicians;

2. more than two permittees; or

3. more than five students.

F. Unavailability of Supervising Physical Therapist of Record for Permittees and Students. If, for any reason, a supervising physical therapist of record cannot fulfill his supervisory obligations:

1. for less than one week, a licensed physical therapist in good standing may supervise in his stead. In such case, the substitute physical therapist is not required to be approved by the board; however, the board approved supervisor, the substitute supervisor, as well as the supervised individual(s), shall be responsible for the care provided by those supervised;

2. for one week or more, the supervising physical therapist shall send written notification to the board for approval of a new supervising physical therapist during his period of absence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 33:

§323. Documentation Standards

A. A written record of physical therapy provided shall be kept on each patient or client served. A complete record shall include written documentation of prescription or referral, initial evaluation, treatment provided, P.T./P.T.A. conferences, progress notes, reassessment, and patient status at discharge.

1. - 2. ...

3. Progress note is the written documentation of the patient's subjective status, changes in objective findings, and progression or regression toward established goals. A progress note shall be written and signed by the attending physical therapist or physical therapist assistant and shall not be written or signed by a physical therapy technician. A progress note shall be written a minimum of once per week, or if the patient is seen less frequently, then at every visit.

4. - 5. ...

6. P.T./P.T.A. conference is the written documentation of the face-to-face conference held to discuss the status of the patient seen in the home health or school settings.

7. Discharge Summary is the written documentation of the reasons for discontinuation of care, degree of goal achievement and a discharge plan which shall be written and signed by the attending physical therapist. A discharge summary shall not be written or signed by a physical therapist assistant or other supportive personnel. A discharge summary shall be written at the termination of physical therapy care.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 21:395 (April 1995), LR 26:1447 (July 2000), LR 28:1981 (September 2002), LR 33:

Subchapter D. Disciplinary Proceedings

§327. Definitions

A. - D. ...

E. As used in R.S. 37: 2413.A.7 of the Physical Therapy Practice Act, the term *unprofessional conduct* means:

1. departure from, or failure to conform to, the minimal standards of acceptable and prevailing physical therapy practice in the state of Louisiana, regardless of whether actual injury to a patient results therefrom, including, but not limited to:

- a. failure to use sound professional judgment;
- b. performing procedures for which the physical therapist is not competent; or
- c. failure to inform and refer the patient/client to an appropriate practitioner, when the physical therapist becomes aware of findings and/or the need for treatment which are outside the scope of the physical therapist's competence;

2. - 5. ...

6. abuse or exploitation of the physical therapy provider/patient or client relationship for the purpose of securing personal compensation, gratification, or gain or benefit of any kind or type, any or all of which are unrelated to the provision of physical therapy services, including engaging in inappropriate sexual or inappropriately intimate conduct, which shall include, but not be limited to:

- a. engaging in or soliciting a sexual or inappropriately intimate relationship, whether consensual or non-consensual, while a physical therapist or physical therapist assistant/patient or client relationship exists;
- b. making sexual or inappropriately intimate advances, requesting or offering sexual favors or engaging in any other verbal conduct or physical contact of a sexual or inappropriately intimate nature with patients or clients; or
- c. intentionally viewing a completely or partially disrobed patient in the course of treatment if such viewing is not reasonably related to patient diagnosis or treatment under current practice standards;

E.7 - F.1 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 31 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), amended LR 19:208 (February 1993), LR 28:1981 (September 2002), LR 33:

Family Impact Statement

In accordance with the requirements of R.S. 49:972, the Board of Physical Therapy Examiners issues the following Family Impact Statement regarding the above proposed Rule.

1. There is no effect on the stability of the family.
2. There is no effect on the authority and rights of parents regarding the education and supervision of their children.
3. There is no effect on the functioning of the family.
4. There is no effect on family earnings and family budget.

5. There is no effect on the behavior and personal responsibility of children.

6. There is no effect on the ability of the family or a local government to perform the function as contained in the proposed Rule.

Pursuant to the Administrative Procedure Act, if oral presentation or argument is requested by the requisite number of persons or the proper entities, then a public hearing on these matters will be held on May 30, 2007, at 3 p.m. at the office of the Board of Physical Therapy Examiners, 104 Fairlane Drive, Lafayette, LA 70507. Please contact the board office at (337) 262-1043 extension 102 to confirm whether or not the public hearing will be conducted.

Written comments concerning the proposed Rules may be directed to this address and to the attention of Cheryl Gaudin, Executive Director. Such comments should be submitted no later than the close of business at 4:30 p.m. on Wednesday, May 23, 2007.

Cheryl Gaudin
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Licensure, Certification, and Practice**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Board will incur an implementation cost for publication and mailing the revised Practice Act, Rules and Regulations booklet. The cost involves reprinting of the booklet to incorporate the new amendments which are being promulgated. The new booklets, as amended, will be provided to the Board's licensees and other interested parties. It is anticipated that \$6,730 in printing costs, \$3,950 in mailing costs, and \$3,500 in personal and professional services will be incurred with the publishing of the proposed rules FY 07. The Board has sufficient self-generated funds available to implement the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the proposed rule amendment will have any effect on the board's revenue collection.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated the proposed rule revisions will clarify the application of the PT Practice Act. The intent of the amendment is to clarify and enhance rules applicable to the supervision of PTA's and other support personnel and to provide effective documentation of such supervision. Additionally, the proposed rules will reduce the potential for noncompliance with the Practice Act, thusly decreasing any potential expenses for disciplinary actions or loss of income as a result of disciplinary actions. Licensees and employer may incur a small indeterminable increase in costs for documenting supervision conferences in patient records as a result of the proposed rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated.

Cheryl Gaudin
Executive Director
0704#046

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Nursing Facilities—Reimbursement Methodology Fair Rental Value Payment (LAC 50:VII.1301 and 1312)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:VII.1301 and adopt §1312 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities to: 1) incorporate new definitions and revise current definitions; 2) provide clarifications on cost report submissions; and 3) adopt provisions governing verification of minimum data set assessments (MDS) and the appeal process for dispute of MDS review findings (*Louisiana Register*, Volume 28, Number 12). The bureau amended the December 20, 2005 Rule to revise the provisions governing emergency preparedness requirements for nursing facilities (*Louisiana Register*, Volume 32, Number 12). The department now proposes to amend the provisions governing the reimbursement methodology for nursing facilities to allow for an additional fair rental value payment when a Medicaid participating nursing facility purchases and closes an existing Medicaid participating nursing facility.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement Methodology

§1301. Definitions

Additional Fair Rental Value Payment—a seller's annual Medicaid fair rental value payment shared by eligible buyers.

* * *

Annual Medicaid Fair Rental Value Payment—the provider's most recent fair rental value per diem calculated under §1305.D.3 multiplied by the total Medicaid days reported on the provider's most recent base year cost report as determined in §1305.B.

* * *

Buyer—a Louisiana Medicaid participating nursing facility that purchases ownership of an existing Louisiana Medicaid participating nursing facility either individually or as a participant in a group purchase.

* * *

Seller—a Louisiana Medicaid participating nursing facility that is purchased by a Louisiana Medicaid participating nursing facility.

Surrender Date—the date closure of an acquired nursing facility and the surrender of the bed license to the state.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), repromulgated LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2261 (December 2006), LR 33:

§1312. Fair Rental Value Payments

A. On or after July 20, 2007, a Louisiana Medicaid participating nursing facility (buyer) that purchases and closes an existing Louisiana Medicaid participating nursing facility (seller) will be eligible to receive an additional fair rental value payment for five years after the purchase and closure of the seller's nursing facility.

B. To qualify for the additional fair rental value payment, all of the following conditions must be met.

1. Buyers must close the purchased nursing facility (seller) within 90 days of purchase.

2. After closing the facility, all buyers must permanently surrender the bed license of the purchased facility (seller) back to the state.

3. The buyers must request and receive written approval by the department to receive their pro rata share of the additional fair rental value payments. The request for approval must include the following:

a. a list of all buyers;

b. a list of all sellers;

c. the date of the purchase transaction;

d. the date the seller closed;

e. each buyer's percentage share of the purchased facility; and

f. a list of nursing facility residents that transferred from the seller to each buyer. The list should include all residents that were admitted to each buyer within two weeks of discharge from the seller including actual discharge and admission dates.

C. The buyer's Medicaid payment determination will be as follows.

1. The annual Medicaid fair rental value payment for the seller will be calculated and multiplied by each buyer's reported percentage share in the purchase of the seller. This will result in each buyer's additional fair rental value payment amount.

Example: Buyers A and B purchase and close seller C. Buyers A and B surrender the bed license of seller C. Buyer A has a 30 percent share and Buyer B has a 70 percent share in the purchase. Seller C has an annual Medicaid fair rental value payment of \$200,000. Under this scenario, buyers A and B are eligible to receive \$60,000 and \$140,000, respectively, in additional fair rental value payments.

2. All buyers will have their fair rental value and property tax and insurance pass-through per diems re-based using the number of residents transferred to the buyer from the seller within two weeks of discharge from the seller. The number of total resident days used in the calculation of the buyers' current fair rental value per diem under §1305.D.3 and the pass-through property tax and insurance per diem under §1305.D.4 will be increased by the number of transferred residents multiplied by the number of current calendar year days. This will result in a revised fair rental value per diem under §1305.D.3 and a revised property tax and insurance per diem under §1305.D.4 for all buyers.

Example: Buyer D purchases and closes seller E. Prior to the purchase, buyer D's fair rental value per diem of \$15.00 and property tax and insurance per diem of \$1.50 are based on a

40,000 resident day divisor from its base year cost report. Total fair rental value is \$600,000 (\$15.00 x 40,000) and total property tax and insurance is \$60,000 (\$1.50 x 40,000). Buyer D receives 25 residents from seller E and the current calendar year days are 365. Under this scenario, buyer D will receive re-based fair rental value and property tax and insurance per diems based on an increase of 9,125 resident days (25 residents x 365 days). This will result in a re-based fair rental value per diem of \$12.21 (\$600,000/49,125) and a property tax and insurance per diem of \$1.22 (\$60,000/49,125).

a. The resident day adjustment to the buyer's fair rental value and property tax and insurance per diems will continue until the buyer's rebase cost report, as defined under §1305.B, includes a full 12 months of resident day data following the purchase and closure of the acquired nursing facility. If the buyer's base year cost report overlaps the closure date of the acquired facility, a proportional adjustment to the buyer's resident days will be made for use in the fair rental value and property tax and insurance per diem calculations.

Example: Buyer D purchases seller E on February 1, 2007. Buyer D closes seller E on March 1, 2007. Buyer D receives 25 residents from seller E and the current calendar year days are 365. For the July 1, 2008 rebase, buyer D's June 30, 2007 cost report is used. Under this scenario, at the July 1, 2008 rebase, buyer D's cost report will include only 4 months of resident day data after the closure of seller E. Therefore, the additional resident day adjustment will be 25 residents x 365 days x 8/12 of a year or 6,083 additional resident days added to their rebase cost report total resident days.

D. The additional fair rental value payments, once calculated, will be paid to the buyer(s) in equal quarterly installments for five years (20 quarters) following the closure and bed license surrender of the acquired facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, May 29, 2006 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Nursing Facilities Reimbursement Methodology Fair Rental Value Payment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$272 for FY 06-07, \$218,705 for FY 07-08, and \$218,705 for FY 08-09. It is anticipated that \$544 (\$272 SGF and \$272 FED) will be expended in FY 06-07 for the state's administrative expense for promulgation of this proposed rule and the final rule. The cost to the state during the first five years may be less than estimated depending on the distribution of the patients following the closure of the selling facility. After the fifth year the state should realize a savings by the reduction of beds of the selling facility and this saving would be equal to the annual cost of the Fair Rental Value and the Property Tax and Insurance cost of the selling facility.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$272 for FY 06-07, \$556,295 for FY 07-08, and \$556,295 for FY 08-09. It is anticipated that \$272 will be expended in FY 06-07 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to amend the provisions governing the reimbursement methodology for nursing facilities to allow for an additional fair rental value payment when a Medicaid participating nursing facility purchases and closes an existing Medicaid participating nursing facility (5 facilities are expected to participate). It is anticipated that implementation of this proposed rule will increase program expenditures for nursing facilities by approximately \$775,000 for FY 07-08 and \$775,000 for FY 08-09.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will promote quality care and increase efficiency and encourage nursing homes to operate at an occupancy level of ninety-five percent.

Jerry Phillips
Medicaid Director
0704#055

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Nursing Facilities—Resident Personal Fund Accounts
(LAC 48:I.9734)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 48:I.9734 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in

accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the licensing of nursing facilities (*Louisiana Register*, Volume 24, Number 1). The bureau now proposes to establish provisions governing nursing facilities which would allow a nursing facility resident's personal fund account to be jointly owned by the resident and his legal guardian or next of kin, and to establish provisions for the disbursement of these funds upon the death of the resident.

Title 48
PUBLIC HEALTH—GENERAL
PART I. General Administration
Subpart 3. Licensing

Chapter 97. Nursing Homes
Subchapter C. Resident Rights

§9734. Resident Personal Fund Account

A. A nursing facility resident, with a personal fund account managed by the nursing facility, may sign an account agreement acknowledging that any funds deposited into the personal fund account by, or on the resident's behalf, are jointly owned by the resident and his legal representative or next of kin. The account agreement must state that the:

1. funds in the account shall be jointly owned with the right of survivorship;
2. funds in the account shall be used by, for, or on behalf of the resident;
3. resident or the joint owner may deposit funds into the account; and
4. resident or joint owner may endorse any check, draft or other instrument to the order of any joint owner, for deposit into the account.

B. If a valid account agreement has been executed by the resident, upon the resident's death, the nursing facility shall transfer the funds in the resident's personal fund account to the joint owner within 30 days of the resident's death. This provision only applies to personal fund accounts not in excess of \$2000.

C. If a valid account agreement has not been executed, upon the resident's death, the nursing facility shall comply with the federal and state laws and regulations regarding the disbursement of funds in the account and the properties of the deceased.

D. The provisions of §105 shall have no effect on federal or state tax obligations or liabilities of the deceased resident's estate. If there are other laws or regulations which conflict with these provisions, those laws or regulations will govern over and supersede the conflicting provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed

Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, May 29, 2007 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing Facilities
Resident Personal Fund Accounts

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 06-07. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in FY 06-07 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 06-07. It is anticipated that \$136 will be expended in FY 06-07 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to adopt provisions governing nursing facilities which would allow a nursing facility resident's personal fund account to be jointly owned by the resident and his legal representative or next of kin, and to establish provisions for the disbursement of these funds upon the resident's death. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 06-07, FY 07-08, and FY 08-09.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Jerry Phillips
Medicaid Director
0704#054

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Severance Taxes on Oil and Gas (LAC 61:I.2903)

Under the authority of R.S. 47:1511, R.S. 47:633 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.2903, relative to the severance tax on oil, condensate or similar natural resources, natural gas liquids, and gas.

The proposed amendments provide definitions, explanations, and the method for determining the severance tax due. These amendments clarify, not alter, the appropriate method for determining or calculating the amount of the severance tax to be paid.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 29. Natural Resources: Severance Tax

§2903. Severance Taxes on Oil; Distillate, Condensate or Similar Natural Resources; Natural Gasoline or Casinghead Gasoline; Liquefied Petroleum Gases and Other Natural Gas Liquids; and Gas

A. Definitions and Explanations

Allocation of Value—inasmuch as oil and condensate are accounted for on a lease basis, rather than on an individual well basis, the gross value received for runs from a lease shall be allocated to the wells within the lease on the basis of the pro rata barrels run from each well. The value received shall be apportioned to all producing wells in a lease without regard to the tax rate applicable to each well.

Arm's-Length Transaction—a transaction, contract or agreement which represents or results in fair market value that has been arrived at in the marketplace between independent, unrelated, nonaffiliated parties with opposing economic interests regarding that transaction, contract or agreement and who are presumed to have roughly equal bargaining power.

Condensate—liquid hydrocarbons, other than natural or casinghead gasoline, which will remain in a liquid state, under atmospheric conditions of pressure and temperature and are recovered by ordinary production methods from a gas well classified as such by the Office of Conservation. The term "condensate" includes liquid hydrocarbons recovered from separators or scrubbers situated at inlets to plants, compressors, dehydrators, or metering stations, regardless of the type of well that produced the gas stream.

Department—the Department of Revenue.

Fair Market Value—the price a willing buyer would pay to a willing seller in an arm's-length transaction. For severance tax purposes, the term "fair market value" shall be synonymous with terms such as "market value", "market price", "fair market price" and "posted field price" and shall be used interchangeably with either or all of them, with no distinction.

First Purchaser—the first person who purchases oil from a producer or operator.

Gas—gaseous phase hydrocarbons recovered by separation from an oil or gas well.

Gas Tax Rate—the gas tax rate as adjusted annually in accordance with R.S. 47:633(9)(a)(i) will be rounded to the nearest 1/10 of 1 cent. When rounding, if the fourth decimal digit is five or greater, the rate shall be rounded up to the nearest tenth; if the fourth decimal digit is less than five, the rate shall be rounded down to the nearest tenth.

Gross Receipts—the total amount of payment received by the producer from the first purchaser in an arm's-length transaction or received or transferred from the first purchaser in a non-arm's-length transaction. Gross receipts shall include bonus or premium payments when made by the purchaser to the owner of the product, all advanced payments, and any other thing of value including, but not limited to, exchanges, barter, or reimbursement of costs. However, advanced payments are not taxable until the oil or condensate for which such payments are made are actually severed and delivered to the purchaser.

Incapable Gas Well—a well classified by the Office of Conservation as a gas well and which has been determined by the secretary to be incapable of producing an average of 250,000 cubic feet of gas per day under operating conditions during the entire taxable month.

Low Pressure Oil Well—a well classified by the Office of Conservation as an oil well and which has been determined by the secretary to have a wellhead pressure of 50 pounds per square inch gauge or less under operating conditions, whether it be tubing flow or casing flow, throughout the entire taxable month. In the absence of a determination to the contrary by the secretary, an oil well producing oil by any artificial method, such as gas lift, pumping or hydraulic lift, shall be presumed to have a wellhead pressure of 50 pounds per square inch gauge or less under operating conditions.

Natural Gas Liquids—liquid hydrocarbons such as natural or casinghead gasoline and other natural gas liquids, including but not limited to butane, propane, ethane, or methane, that are extracted or recovered from gas after the ultimate separation or scrubbing of the gas stream by specifically applied mechanical processes of absorption, adsorption, compression cooling, cryogenics and refrigeration to the entire volume of gas from which the natural gas liquid is recovered. The term "natural gas liquids" includes liquid hydrocarbons recovered from hydrex and HRU (hydrogen recovery unit) units, i.e., gas plants.

Non-Arm's-Length Transaction—a transaction, contract or agreement between subsidiaries or related parties or affiliates that is not arm's-length. The term "non-arm's-length transaction" includes, but is not limited to, exchanges, buy/sell agreements, and balancing agreements, and other transactions where the intent is not to sell the product but to move it for the benefit of the parties, even if the parties to the transaction, contract or agreement are not subsidiaries, related parties, or affiliates.

Oil—liquid hydrocarbons recovered by initial separation from a well classified as an oil well by the Office of Conservation.

Operator—a person who assumes responsibility for the physical operation and control of a well and is the operator of record with the Office of Conservation.

Payout—the payout of the well cost for a horizontal well as referred to in R.S. 47:633(7)(c)(iii), a deep well as referred to in R.S. 47:633(9)(d)(v), or a new discovery well as referred to in R.S. 47:648.3 occurs when gross revenue from all products produced from the well, less royalties and operating costs directly attributable to the well, equals the well cost as approved by the Office of Conservation. Operating costs are limited to those costs directly attributable to the operation of the exempt well, such as direct materials, supplies, fuel, direct labor, contract labor or services, repairs, maintenance, property taxes, insurance, depreciation, and any other costs directly attributed to the operation of the well. Operating costs do not include any costs that were included in the well cost approved by the Office of Conservation. Charges or costs for transportation shall not be included or used to determine the payout of the well cost.

Point of Disposition—the point at which a purchaser or transporter assumes custody of liquids. The disposition point can be a lease, unit, well, commingling facility, common battery, lease battery, gas well, pipeline, or market center.

Producer—the owner of a well capable of producing oil, gas or both oil and gas. The terms "producer" and "operator" shall have the same meaning and may be used interchangeably.

Raw Make—liquid hydrocarbons extracted or recovered from a natural gas stream, regardless of the type of well that produced the gas stream.

Secretary—the Secretary of the Department of Revenue or representative of the secretary.

Severer—any person engaged in severing oil or gas from the soil or water of this state, or operating oil or gas property or other property from which oil or gas is severed, regardless of whether the person is severing from their own property, the property of another, is the owner of the oil or gas and is severing from property of another person, or is severing oil or gas under contracts or agreements requiring payment as described in R.S. 47:636.

Stripper Field—a field in which all crude oil production is from certified stripper oil wells.

Value—fair market value.

B. Determination of Value—Oil or Condensate

1. The value of oil or condensate shall be the higher of the gross receipts of all things of value received directly or indirectly by the producer or fair market value, less allowed costs of transportation, as defined in §2903.B.3. In no case shall any other deductions be allowed.

2. When oil or condensate is exchanged for something other than cash, or there is no sale at the time of severance, or the relation between the buyer and seller is such that the consideration paid, if any, is not indicative of the fair market value of the oil or condensate, the transaction will be deemed non-arm's length. In such cases, the following may provide the basis for determining the value of the oil or condensate:

a. North Louisiana Production—the pricing assessment published by Platts Oilgram for Empire Louisiana. North Louisiana production is based on the parish in which the field is located, as designated by the Office of Conservation;

b. South Louisiana Production—the pricing assessment published by Platts Oilgram for St. James,

Louisiana. South Louisiana production is based on the parish in which the field is located, as designated by the Office of Conservation.

3. Only the actual and reasonable charges incurred by the producer for trucking, barging, and pipeline fees to transport the oil or condensate from the point where the volume of oil or condensate to be sold has been measured to the first place or point of disposition shall be deducted from the value of oil or condensate. In no case shall the deduction allowed for costs of transportation include charges, costs, or fees for gathering or handling the oil or condensate. The deduction allowed for costs of transportation shall only apply in cases where the actual sales price or market price is determined at a point off the lease.

C. Certification for Reduced Tax Rates. A taxpayer may qualify for the lesser tax rates levied in R.S. 47:633(7)(b) and (c), and R.S. 47:633(9) by certifying and reporting production and test data, on forms prescribed by the secretary.

1. Oil. Oil production is certified for reduced severance tax rates provided by R.S. 47:633(7)(b) or (c)(i)(aa) by individual well. To receive the reduced tax rate on the crude oil production from an oil well, an application must be filed with the secretary on or before the twenty-fifth day of the second month following the month in which production subject to the reduced rate applies.

a. After a well has been certified for the reduced tax rate, it is necessary to file continuing certification forms on or before the twenty-fifth day of the second month following the month of production.

i. It is not necessary to include stripper wells that are certified with a "B" prefix code on the continuing certification forms.

ii. Failure to file or delinquent filing of the continuing certification forms may result in certification denial for the month's production that the report is delinquent or not filed.

b. Wells cannot be certified as both a stripper and an incapable oil well at the same time.

c. Recertification is required whenever the well operator changes.

d. All wells are subject to redetermination of their reduced rate status based on reports filed with the Department and the Office of Conservation. When a well no longer meets the qualifications for the reduced tax rate for which it was certified, the full tax rate becomes due.

i. A new certification is required whenever the well's tax rate status changes.

ii. Crude oil production from a multiple well lease or property is not subject to the reduced tax rate, unless all such wells are certified as incapable.

2. Gas. Gas production is certified for reduced severance tax rates provided by R.S. 47:633(9)(b) and (c) by individual well. To receive the reduced severance tax rate on natural gas or casinghead gas production, an application must be filed with the secretary on or before the twenty-fifth day of the second month following the month in which production occurs.

a. The well cannot be certified as both an incapable gas well and an incapable oil well at the same time.

b. If the well changes from one tax rate status to another a new certification is required.

c. Recertification is required whenever the well operator changes.

d. All wells are subject to redetermination of their reduced rate status based on reports filed with the department and the Office of Conservation. When a well no longer meets the qualifications for the reduced tax rate for which it was certified, the full tax rate becomes due.

D. Determination of Taxable Volume—Liquids. It is the duty of the severer to measure the volume of oil, condensate or similar natural resources immediately upon severance or as soon thereafter as these hydrocarbons come into being in the form on which the tax is imposed.

1. In any arm's-length transaction involving oil, condensate or similar natural resources individually or in a commingled combination, the method of measurement utilized by the first purchaser and the seller for determining the total volume involved and the volumes applicable to the properties involved is acceptable and may be used for the determination of the volumes to which the appropriate tax rates apply.

2. In the absence of an arm's-length transaction or for any other reason where the secretary deems that the method of measurement is prejudicial to the state's best interests, the secretary shall prescribe an acceptable method of measurement.

3. When liquid hydrocarbons bearing various tax rates are commingled without proper prior measurement as prescribed below, the entire commingled volume shall be taxed at the highest tax rate applicable to any oil or condensate present in the commingled volume.

4. Proper measurement prior to commingling oil and condensate shall be as outlined below.

a. Stock Tank Measurement. When oil, condensate or similar natural resources are produced into stock tanks, the tanks shall be strapped on a 100 percent basis. All measurements, gravity determination, temperature corrections to 60°F, and determinations of basic sediment and water (BS and W) shall be made in accordance with procedures outlined in the latest American Petroleum Institute (API) code covering measuring, sampling, testing of crude oil, and the American Society for Testing Materials—Institute of Petroleum (ASTM-IP) petroleum measurement tables.

b. Liquid Metering Devices. When oil and condensate are not stock tank measured but must be measured at pressures above atmospheric pressure, such liquids shall be measured by means of a liquid metering device. The meter shall be calibrated at least once every 90 days and records of calibration and all other pertinent test results shall be kept on file for the same period of time as the prescriptive period relative to taxes and must be available for examination by representatives of the department. The taxpayer may pay tax on the metered volume or allocated meter volume at the meter measurement pressure corrected to 60°F. When a flash factor is required to convert the volume at the meter measurement pressure to the volume at atmospheric pressure, the flash factor may be obtained by either utilizing the equilibrium vaporization flash calculation method or the differential vaporization process.

c. Well Tests. When crude oil or condensate are not stock tank measured or measured by liquid measuring devices, the use of well tests, split stream tests, full stream

tests or other acceptable and recognized methods of determining the liquid volume of full well stream shall be employed as a measurement device for allocation purposes.

5. When oil or condensate is commingled with a liquid hydrocarbon bearing a lesser tax rate, the oil or condensate shall be taxed on the basis of value received for the entire commingled product.

a. When oil or condensate bearing various tax rates is commingled prior to separate measurement, the commingled volume shall be taxed at the highest tax rate applicable to any oil or condensate present in the commingled volume. The separate measurement requirement is met when one of the products is properly measured prior to commingling.

E. Determination of Taxable Volume—Gas. It is the duty of the severer to measure the volume of gas immediately upon severance or as soon thereafter as the substance comes into being in the form on which the tax is imposed.

1. Gas produced from an individual gas well, regardless of whether the well is capable or incapable, shall be measured by means of a meter or well tests acceptable to the secretary. Metering may be accomplished by the backout method, whereby the volume produced by one of two or more wells may be ascertained by subtracting from the combined metered volume the measured volumes from the rest of the wells. All measurements shall be made at a pressure base of 15.025 pounds per square inch absolute and at a temperature of 60°F with corrections made for deviations from Boyle's law when measurement pressures exceed 200 pounds per square inch gauge.

2. Gas produced from individual oil wells may be determined by an allocation of the total metered volume based on gas/oil ratios or solution oil ratios acceptable to the secretary. Records pertaining to volume determinations shall be kept on file for examination and verification by representatives of the secretary.

3. When gas volumes bearing various tax rates are commingled, the volumes bearing each different tax rate must be determined prior to commingling as outlined in §2903.E.1 or 2. When such commingling occurs and it is determined by the secretary or his representative that the prescribed measurement requirements have not been met, the entire commingled volume shall be taxed at the highest rate applicable to any gas present in the commingled volume.

F. Application of the Tax on Gas. All gas other than gas expressly exempted from the tax under the provisions of R.S. 47:633(9)(e) is subject to the tax. The determination of whether gas lift gas is taxable or exempt shall be made in the same manner as for formation gas.

1. Gross gas production shall be an accumulation of the total dispositions of formation gas from a well or lease. Gas exhausted from a gas lift installation, commonly called "re-cycled gas," and commingled with formation gas shall not be included in the volume of gas produced from the underground formation. Dispositions shall include, by way of illustration but not by way of limitation, gas used for field operations, within or without the field, gas vented into the atmosphere, gas used elsewhere for gas lift, gasoline and natural gas liquids extracted (which must be converted to gas), and gas delivered to a processing plant, sales or deliveries.

2. Gas that has not previously borne tax or been subject to tax shall not be allowed as an exclusion or tax credit upon injection, but will be allowed as an exclusion when ultimately reproduced. Thus, gas produced in another state or in federal offshore areas would not qualify for an exclusion or tax credit upon injection into the formation in the state of Louisiana.

3. Gas that has previously been allowed as an exclusion or tax credit at the time of injection shall be taxed at the time of reproduction, notwithstanding the fact that it may have been originally produced outside the state of Louisiana.

4. Gas produced without the state of Louisiana which has been injected into the earth in the state of Louisiana will be allowed as an exemption to the extent that the exemption will not exceed the production from the same formation. Adequate records must be maintained by the taxpayer so as to identify the nontax paid injected gas at the time of reproduction and qualify for the exclusion.

5. When capable and incapable gas volumes are commingled and gas is subsequently withdrawn from the commingled mass and used for a purpose which makes the gas exempt from the severance tax, it will be presumed that the ratio of the volumes of capable and incapable gas remaining in the commingled mass will be in the same ratio as before withdrawal.

6. Carbon Black

a. Carbon black exclusions may be allocated to leases on a contractual basis, provided, however, that such gas is physically capable of being consumed as carbon black. In the absence of contractual limitations, the allocation of plant fuel and carbon black shall be on an equitable and reasonable basis.

b. Whenever sales or deliveries are made for plant fuel or carbon black usage, the consumer of such plant fuel and the transporter or seller of the gas used for carbon black shall be required to submit a report monthly to the department showing 100 percent entries into its gas streams involved and an allocation of the plant fuel or carbon black usage withdrawn from the stream back to the sources entering the commingled mass.

7. Drip Points

a. No additional severance tax is due on scrubber liquids recovered subsequent to a point at which the gas severance tax has been paid, provided, however, such recovery has been made from a pipeline gas stream owned and operated by someone other than the producer of the gas, the scrubber liquids are recovered after the gas has changed ownership, and the producer receives no revenue or other thing of value from the sale of plant products or raw make removed from the gas stream.

b. When severance tax is due and paid on scrubber liquids, natural, or casinghead gasoline recovered from gas subsequent to a point at which the gas severance tax on the gas has been previously paid, a credit will be given for the gas shrinkage volume resulting from the recovery of these scrubber liquids, natural, or casinghead gasoline. This gas severance tax credit shall be made on an actual vapor equivalent or at 1,260 cubic feet of gas per barrel of liquid recovered.

8. Gas used or consumed as fuel in the operation of a recycling or gasoline plant for purposes other than the

production of natural resources in the state of Louisiana shall not be exempt from the tax. The extraction or fractionation of liquefied petroleum gases (LPG) or natural or casinghead gasoline does not constitute production of natural resources.

G. Exclusions from the Gas Severance Tax

1. Gas injected into the formation in the state of Louisiana.

2. Gas produced without the state of Louisiana which has been injected into the earth in the state of Louisiana.

3. Gas vented or flared from oil and gas wells, provided such gas is not otherwise sold. There shall be no exclusion allowed for gas flared at gasoline or recycling plants if such gas is attributable to raw gas volumes which are sold by the producer prior to plant processing.

4. Gas used for fuel in connection with the operation and development for or production of oil and gas in the field where produced, provided such gas is not otherwise sold.

5. Gas used for drilling fuel in the field where produced even though sold for that purpose.

6. Gas used in the manufacture of carbon black.

7. Gas attributable to United States government royalty.

8. Gas accounted for as measurement differences.

a. Only measurement differences that occur as a result of reasonable losses are excluded from the gas severance tax.

b. Measurement differences that occur as a result of gains are not excluded from the gas severance tax and are taxable at the applicable tax rate.

H. Reports and Returns

1. All returns and reports shall be made on forms prescribed by the secretary or substantially similar forms approved for use by the secretary. Returns and reports shall be completed and filed in accordance with instructions issued by the secretary.

2. The secretary is empowered to require any person engaged in severing natural resources, or any other person held liable for severance taxes, to furnish necessary information pertaining thereto for the proper enforcement, and verification of taxes levied in R.S. 47:631 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:633, 47:648.3, and 47:1511.

HISTORICAL NOTE: Adopted by the Department of Revenue and Taxation, Severance Tax Division, August 1974, amended LR 3:499 (December 1977), amended LR 20:1129 (October 1994), repromulgated LR 20:1299 (November 1994), amended by the Department of Revenue, Severance Tax Division, LR 23:1167 (September 1997), LR 24:2321 (December 1998), LR 29:951 (June 2003), LR 32:1615 (September 2006), amended by the Department of Revenue, Policy Services Division, LR 33:

Family Impact Statement

This Family Impact Statement is provided as required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature.

1. Implementation of this proposed Rule will have no effect on the stability of the family.

2. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

6. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Annie L. Gunn, Attorney, Policy Services Division, Department of Revenue, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by May 25, 2007. A public hearing will be held on May 30, 2007, at 1 p.m. in the Calcasieu Room on the Second Floor of the LaSalle Building at 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Severance Taxes on Oil and Gas**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed amendments to LAC 61:I.2903 provides definitions, explanations, standards and guidelines for payment of the severance tax on oil, condensate, and gas. The amendments also provide the method by which the value of oil and/or condensate is determined when computing the severance tax due. Implementation of this proposed amendment will have no effect on the costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These proposed amendments are estimated to increase annual state severance tax revenue collections by approximately \$1.9 million because producers will only be allowed to deduct actual transportation costs billed by third parties, and will not be allowed the option of deducting the standard 25 cents per barrel if they have no third-party transportation costs, or their actual costs are less than 25 cents per barrel. There will be no effect on the revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will require oil producers to pay approximately \$1.9 million more severance tax annually because the producers will only be allowed to deduct their actual transportation costs billed by third parties and will not be allowed the option of deducting the standard 25 cents per barrel if they have no third-party transportation costs, or their actual costs are less than 25 cents per barrel.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendment will have no effect on competition or employment.

Cynthia Bridges
Secretary
0704#051

Robert E. Haas
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

Daycare Services (LAC 67:V.2301)

The Department of Social Services, Office of Community Services, proposes to amend the Louisiana Administrative Code, Title 67, Part V, Subpart 4, Family Services, pursuant to the authority granted to the department by the Child Care and Development Fund and to establish standard rates for day care services reimbursed by the department.

Title 67

SOCIAL SERVICES

Part V. Community Services

Subpart 4. Family Services

Chapter 23. Daycare

§2301. Daycare Services

A. ...

B. Class A Day Care Centers will be reimbursed for day care services at the same reimbursement rate as the Office of Family Support Child Care Assistance Program. When a center's rate is less than the maximum amount reimbursed by the department, the department reimbursement rate will be the center's usual charge for day care services.

C. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 11:689 (July 1985), amended LR 18:868 (August 1992), LR 25:243 (December 1999), LR 31:101 (January 2005), LR 33:

All interested persons may submit written comments to Marketa Garner Gautreau, Assistant Secretary, Office of Community Services, P.O. Box 3318, Baton Rouge, LA 70821. She is responsible for responding to inquiries regarding this proposed Rule.

Family Impact Statement

1. The Effect on the Stability of the Family. This Rule could positively impact family stability by improving the quality of care supplied by childcare providers for children receiving services.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. This Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children. The services are a parental option and the parents choose the day care facility their children attend.

3. The Effect on the Functioning of the Family. Day care services contribute to family stability by assisting to protect children from abuse/neglect and contributing to foster care and adoptive placement stability. Therefore, the services have a positive effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. This Rule will have no effect as the department reimburses the center for the services.

5. The Effect on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. No, this program and the procedure for reimbursement are agency functions.

Ann S. Williamson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Daycare Services**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule change proposes to establish standard rates for day care services reimbursed by the department. As a result, Class A Day Care Centers pay rate will increase from \$16.50 to \$17.50 per day effective January 1, 2007. The cost for SFY 2006-2007 is expected to be \$154,038 (based on five months 2/06-6/06) and will be funded with Federal Child Care Block Grant (CCGB) funds, which the agency will receive as Interagency Transfers from the Office of Family Support (OFS). The CCBG funds are appropriated in OFS's FY 06-/07 budget. An additional \$172 (State General Fund) is needed in SFY 06-07 to publish the Notice of Intent and Rule in the Louisiana Register. The agency has sufficient funds to cover this cost. The estimated cost for SFY 07-08 and 08-09 is \$369,692, and will be funded with CCBG funds.

There will be no savings as a result of the increase in the reimbursement rate to day care centers.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will have no effect on state or local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Class A Day Care Centers will benefit from this rule change because their pay rates will increase from \$16.50 to \$17.50 per day per child.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Marketa Garner Gautreau
Assistant Secretary
0704#059

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Mourning Dove Hunting Zones (LAC 76:V.323)

The Department of Wildlife and Fisheries and Wildlife and Fisheries Commission do hereby advertise their intent to establish mourning dove hunting zones.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the

filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 3. Wild Birds

§323. Mourning Dove Hunting Zones

A. The state shall be divided into North and South Mourning Dove Hunting Zones by the following boundary: Beginning at the Texas-Louisiana border on La. Highway 12; thence east along La. Highway 12 to its intersection with U.S. Highway 190; thence east along U.S. Highway 190 to its intersection with Interstate 12; thence east along Interstate 12 to its intersection with Interstate 10; thence east along Interstate 10 to the Mississippi state line.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 33:

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments on the proposed Rule to Mr. David Moreland, Administrator, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than Wednesday, June 6, 2007.

Earl P. King, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Mourning Dove Hunting Zones**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of the proposed rule will be carried out using existing staff and funding levels. No additional cost or savings are anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Establishing north and south zones for mourning dove hunting will allow the Louisiana Wildlife and Fisheries Commission to develop mourning dove seasons that better meet the interests of the hunters within each zone. Louisiana has from 40,000 to 50,000 mourning dove hunters each year. Based on results from a recent survey of dove hunters conducted by the Louisiana Department of Wildlife and Fisheries, over 80 percent of dove hunters supported the use of zoning and about 45 percent supported the proposed boundary, more than twice the level of support for any other suggested boundary.

No additional costs, workload or paperwork to directly affected persons or non-governmental groups will be incurred. Commercial dove field operators may experience a slight increase in revenues, if the demand for dove hunting increases.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

No effect on competition and employment is anticipated.

Wynette Kees
Deputy Undersecretary
0704#043

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Committee Reports

COMMITTEE REPORT

Senate Revenue and Fiscal Affairs Committee

Entertainment Industry Tax Credit Programs (LAC 61:I.Chapter 16)

Pursuant to R.S. 47:6007(D)(1), the Senate Revenue and Fiscal Affairs Committee met on March 19, 2007, to conduct an oversight hearing relative to a Declaration of Emergency to be published in the March 20, 2007 *Louisiana Register* and adopted by the Department of Revenue, Department of Economic Development, Office of Business Development, and the Governor's Office of Film and Television Development on March 9, 2007.

The Emergency Rule adopts rules for the Louisiana Motion Picture Investor Tax Credit Program.

The members of the Senate committee determined that:

1. the adoption of the Emergency Rule prior to approval by the committee violated the provisions of R.S. 47:6007(D)(1);
2. the Rule did not meet the criteria for an Emergency Rule as set forth in R.S. 49:953(B)(1); and
3. the Rule does not provide equal and fair treatment to everyone in the industry.

The Senate committee determined that the Emergency Rule is unacceptable by a vote of 4-3.

Willie Mount
Chairman

0704#061

Administrative Code Update

CUMULATIVE: JANUARY – MARCH 2007

LAC Title	Part.Section	Effect	Location LR 33 Month Page	LAC Title	Part.Section	Effect	Location LR 33 Month Page									
7	V.Chapter 23	Adopted	Mar. 422	42	VII.4203	Amended	Mar. 488									
	XV.132	Adopted	Jan. 34													
	XXXV.101,105	Amended	Jan. 39	43	XIII.Chapters 3-5,9-15,2103 XIII.2142 XIII.Chapters 27-33,51,61-63	Amended Adopted Amended	Mar. 473 Mar. 473 Mar. 473									
	XXXV.501,503,505	Adopted	Jan. 34													
	XXXV.511	Adopted	Jan. 37													
	XXXIX.1111,1113	Adopted	Feb. 249													
13	III.303,311	Amended	Jan. 44	46	XXXVII.1109 XLI.531 XLV.412 XLVII.1705 XLVII.3328 XLVII.3329 LXIII.403 LXIII.Chapter 10	Adopted Amended Adopted Amended Adopted Amended Adopted	Feb. 283 Feb. 283 Jan. 91 Jan. 92 Mar. 460 Mar. 460 Mar. 458 Mar. 459									
	III.Chapter 17	Adopted	Jan. 41													
16	III.701	Adopted	Mar. 466					48	I.4001 I.Chapter 92 I.9469,9515 I.9517-9521	Amended Amended Amended Repealed	Jan. 100 Jan. 95 Feb. 284 Feb. 284					
25	XI.Chapter 5	Adopted	Feb. 249													
28	IV.101,301,503	Amended	Mar. 439									50	I.8341-8349 VII.32901,32903 IX.305 XXVII.571 XXIX.971,981	Adopted Amended Adopted Adopted Repealed	Mar. 463 Mar. 461 Mar. 462 Mar. 462 Jan. 100	
	IV.301,1103	Amended	Jan. 86													
	IV.505	Amended	Jan. 83													
	IV.703,705,803,805	Amended	Mar. 435													
	IV.1301,2103,2105,2109,2303	Amended	Mar. 439													
	V.101,103	Amended	Mar. 435													
	VI.107,301,309,311	Amended	Mar. 443													
	VII.101,103,113	Amended	Mar. 444													
	XLI.1301	Adopted	Mar. 434													
	LXXXIII.301,603,708	Amended	Mar. 423													
	LXXXIII.307,409,515,703-707	Amended	Feb. 252													
	LXXXIII.3905,4001,4527	Amended	Feb. 252													
	XCVII.905	Amended	Mar. 434													
	CXI.105-109,305-311,312	Amended	Feb. 255													
	CXI.111,1801,2303-2323	Adopted	Feb. 255													
	CXI.305,1901	Amended	Mar. 424													
	CXI.313-315,501,511,2301	Amended	Feb. 255													
	CXI.1701,2001	Amended	Feb. 265													
	CXI.1703-1717,2003-2027	Adopted	Feb. 265													
	CXI.1903-1917	Adopted	Mar. 424													
	CXI.2701,3305,3307,3501	Amended	Feb. 255													
	CXI.3306,3509	Adopted	Feb. 255													
	CXV.337,1121	Amended	Mar. 429													
	CXV.501	Amended	Mar. 431													
	CXV.2301,2319,2321,2357,2363	Amended	Mar. 429													
	CXV.2319	Amended	Mar. 432													
	CXV.2373-2385,3113	Amended	Feb. 277													
CXV.2375	Amended	Feb. 276														
XCVII.905	Amended	Mar. 434														
CXXXI.219,221,223	Amended	Mar. 432														
CXXXI.305,309	Amended	Mar. 433														
CXXXI.403	Amended	Feb. 280														
CXXXI.408	Adopted	Feb. 281														
CXXXIII.Chapters 1-31	Adopted	Jan. 44														
33	I.Chapter 12	Adopted	Mar. 447	67	III.2303 III.2523 III.5103,5107,5109	Amended Adopted Amended	Mar. 508 Mar. 508 Mar. 506									
	I.2001,2305	Amended	Jan. 88													
	III.2103	Amended	Mar. 446													
	V.105	Amended	Mar. 449													
	V.106,199	Adopted	Mar. 449													
	V.1107	Amended	Jan. 88													
	V.1107	Repromulgated	Feb. 281													
	V.4999	Amended	Mar. 445													
	V.5136	Repealed	Jan. 88													
	V.5147	Adopted	Mar. 449													
	V.Chapters 301-313	Amended	Mar. 466													
	V.30588	Adopted	Mar. 466													
	VII.10505,10519,10521,10533	Amended	Jan. 89													
	IX.1105,1109,1113	Amended	Mar. 455													
	XV.322,399,607	Amended	Mar. 448													
	35	XIII.11515,11517	Amended	Feb. 282	70	I.1101 III.127,134,135,139,141,143 IX.101 IX.301-317,501-599,601-705 IX.901-909,911-937,1101-1111 IX.911-917	Adopted Amended Amended Repealed Amended Repealed	Mar. 533 Mar. 530 Mar. 510 Mar. 510 Mar. 510 Mar. 510								
	37	XIII.Chapter 101	Amended	Jan. 101					72	I.Chapter 3 I.Chapter 5	Adopted Adopted	Mar. 509 Mar. 510				
XIII.Chapter 119		Adopted	Mar. 464													
46													76	III.335 V.123 VII.367 VII.521 VII.1101 XI.103 XI.303 XIX.103	Adopted Amended Amended Adopted Adopted Adopted Adopted Amended	Mar. 538 Feb. 297 Jan. 113 Feb. 297 Mar. 536 Mar. 537 Jan. 114 Jan. 115

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Annual Quarantine Listing—2007

In accordance with LAC 7:XV.107 and 109, we are hereby publishing the annual quarantine.

1.0 Sweetpotato Weevil (*Cylas formicarius elegantulus* Sum)

(a) In the United States: the states of Alabama, California, Florida, Georgia, Mississippi, North Carolina, South Carolina, Texas and any other state found to have the sweetpotato weevil.

(b) In the state of Louisiana:

1) The entire parishes of: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Cameron, DeSoto, East Baton Rouge, East Feliciana, Evangeline, Grant, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, Red River, 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, Webster, West Baton Rouge, West Feliciana.

2.0 Pink Bollworm (*Pectinophora gossypiella* Saunders)

Pink bollworm quarantined areas are divided into generally infested and/or suppressive areas as described by USDA-PPQ.

ARIZONA

(1) Generally infested area: the entire state.

CALIFORNIA

(1) Generally infested area: The entire counties of: Imperial, Inyo, Los Angeles, Orange, Riverside, San Bernardino, and San Diego.

(2) Suppressive area: The entire counties of: Fresno, Kern, Kings, Madera, Merced, San Benito, and Tulare.

NEW MEXICO

(1) Generally infested area: The entire state.

TEXAS

(1) Generally infested area: The entire state.

3.0 Phytophagous Snails

The states of Arizona and California.

4.0 Sugarcane Pests and Diseases

All states outside of Louisiana.

5.0 Lethal Yellowing

The states of Florida and Texas.

6.0 Tristeza, Xyloporosis, Psorosis, Exocortis.

All citrus growing areas of the United States.

7.0 Burrowing Nematode (*Radopholus similis*)

The states of Florida and Hawaii and the Commonwealth of Puerto Rico.

8.0 Oak Wilt (*Ceratocystis fagacearum*)

ARKANSAS

Infected counties: Baxter, Benton, Boone, Carroll, Clay, Craighead, Crawford, Franklin, Fulton, Independence, Izard, Johnson, Lawrence, Logan, Madison, Marion, Mississippi, Nevada, Newton, Poinsett, Pope, Randolph, Scott, Searcy, Sharp, Stone, Washington, and Yell.

ILLINOIS

Entire state.

INDIANA

Entire state.

IOWA

Entire state.

KANSAS

Infected counties: Anderson, Atchison, Cherokee, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Shawnee, and Wyandotte.

KENTUCKY

Infected counties: Adair, Allen, Ballard, Bath, Bell, Boyd, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carter, Casey, Christian, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fleming, Floyd, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Hart, Henderson,

Hopkins, Jefferson, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Logan, McCracken, McLean, Magoffin, Marshall, Martin, Menifee, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Ohio, Oldham, Owsley, Perry, Pike, Powell, Pulaski, Rowan, Russell, Taylor, Todd, Trigg, Union, Warren, Wayne, and Webster.

MARYLAND

Infected Counties: Allegany, Frederick, Garrett, and Washington.

MICHIGAN

Infected counties: Barry, Barrien, Calhoun, Cass, Clare, Clinton, Grand Traverse, Kalamazoo, Kent, Lake, Livingston, Manistee, Missaukee, Muskegon, Oakland, Roscommon, St. Joseph, Van Buren, Washtenaw, Wyne, and Menominee.

MINNESOTA

Infected counties: Anoka, Aitkin, Blue Earth, Carver, Cass, Chicago, Crow Wing, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Le Sueur, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, and Wright.

MISSOURI

Entire state.

NEBRASKA

Infected counties: Cass, Douglas, Nemaha, Otoe, Richardson, and Sarpy.

NORTH CAROLINA

Infected counties: Buncombe, Burke, Haywood, Jackson, Lenoir, Macon, Madison, and Swain.

OHIO

Entire state.

OKLAHOMA

Infected counties: Adair, Cherokee, Craig, Delaware, Haskell, Latimer, LeFlore, Mayes, McCurtain, McIntosh, Ottawa, Pittsburg, Rogers, Sequoyah, and Wagoner.

PENNSYLVANIA

Infected counties: Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Centre, Clarion, Clinton, Cumberland, Erie, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, Mifflin, Perry, Somerset, Venango, Washington, and Westmoreland.

SOUTH CAROLINA

Infected counties: Chesterfield, Kershaw, Lancaster, Lee, and Richland.

TENNESSEE

Infected Counties: Blount, Carter, Cocke, Cumberland, Grainger, Greene, Hamblen, Hancock, Hardeman, Hawkins, Jefferson, Knox, Lincoln, Loudon, Montgomery, Rhea, Roane, Robertson, Sevier, Sullivan, Union, Washington, and White.

TEXAS

Infected counties: Bandera, Bastrop, Bexar, Blanco, Basque, Burnett, Dallas, Erath, Fayette, Gillespie, Hamilton, Kendall, Kerr, Lampasas, Lavaca, McLennan, Midland, Tarrant, Travis, Williamson.

VIRGINIA

Infected counties: Alleghany, Augusta, Bath, Botetoust, Clarke, Frederick, Giles, Highland, Lee, Loudoun, Montgomery, Page, Rockbridge, Rockingham, Scott, Shenandoah, Smyth, Warren, Washington, Wise, and Wythe.

WEST VIRGINIA

Infected counties: all counties except Tucker and Webster.

WISCONSIN

Infected counties: Adams, Brown, Buffalo, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Lincoln, Marquette, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Racine, Richland, Rock, St. Croix, Sauk, Shawano, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood.

9.0 Phony Peach

ALABAMA

Entire state.

ARKANSAS

Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittendon, Cross, Desha, Drew, Hempstead, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union, and Woodruff.

FLORIDA

Entire state.

GEORGIA

Entire state.

KENTUCKY

County of McCracken.

LOUISIANA

Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Morehouse, Natchitoches, Ouachita, Red River and Union.

MISSISSIPPI

Entire state.

MISSOURI

County of Dunklin.

NORTH CAROLINA

Counties of Anson, Cumberland, Gaston, Hoke, Polk and Rutherford.

SOUTH CAROLINA

Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda, Spartanburg, Sumter, and York.

TENNESSEE

Counties of Chester, Crockett, Dyer, Fayette, Hardman, Hardin, Lake, Lauderdale, McNairy, Madison, and Weakley.

TEXAS

Counties of Anderson, Bexar, Brazos, Cherokee, Freestone, Limestone, McLennan, Milan, Rusk, San Augustine, Smith, and Upshur.

10.0 Citrus Canker (*Xanthomonas axonopodis* pv. *citri*)

Any areas designated as quarantined under the Federal Citrus Canker quarantine 7 CFR 301.75 et seq.

11.0 Pine Shoot Beetle [*Tomicus piniperda* (L.)]

Any areas designated as quarantined under the Federal Pine Shoot Beetle quarantine 7 CFR 301.50 et seq.

Bob Odom
Commissioner

0704#009

POTPOURRI

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Notification and Reportable Quantity List
(LAC 33:I.3908, 3919, 3925, and 3931)

Notice is given that the Department of Environmental Quality is hereby withdrawing the proposed rule, Log #OS071, which proposed to amend the Office of the Secretary regulations, LAC 33:I.3908, 3919, 3925, and 3931. The Notice of Intent for this proposed rule was published on pages 1471-1473 in the *Louisiana Register* on August 20, 2006. A public hearing was held on September 26, 2006, and comments were received. After review and consideration of these comments, substantive changes were made to the proposed rule. The proposed rule with substantive changes (OS071S) was published on pages 2495-2498 of the December 20, 2006, *Louisiana Register*. A public hearing on the substantive changes was held on January 24, 2007, and comments were received. After

review and consideration of all comments received, the Department has determined that another substantive change to this rule is needed. Therefore, the Department is withdrawing this proposed rule and intends to initiate rulemaking for a similar rule further revising certain provisions of LAC 33:I.Chapter 39. If you have any questions, please call Judith A. Schuerman, Ph.D., at (225) 219-3550.

Herman Robinson, CPM
Executive Counsel

0704#035

POTPOURRI

Department of Environmental Quality Office of the Secretary

Declaratory Ruling—Submittals of Annual Criteria Pollutant Emissions

Subject: Submittals of Annual Criteria Pollutant Emissions Inventory Data for Calendar Year 2006

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with LAC 33:I.1125.A, the secretary hereby issues a declaratory ruling regarding submittals of Annual Criteria Pollutant Emissions Inventory Data for calendar year 2006.

Background

The Louisiana Department of Environmental Quality (Department) has initiated a project to update and enhance the existing emissions inventory reporting system. Due to unavoidable delays, however, the system will not be ready to receive data, nor will user training be completed, in time for users to meet all of the requirements associated with the March 31, 2007, criteria pollutant emissions inventory reporting deadline set forth in LAC 33:III.918 and 919. Some Department issued permits contained language that was more restrictive than that contained in LAC 33:III.918 and 919 with regard to reporting of emissions inventory data. The Department never intended this to be the case, and issues this ruling to ensure that facilities which report calendar year 2006 emissions by July 1, 2007 will be found compliant with LAC 33:III.918 and 919. To address this inconsistency, the Department issued Potpourri Notice 0612Pot4 on December 20, 2006, containing the alternative notification procedures for facilities to follow if their permit language was more restrictive than LAC 33:III.918 and 919.

Ruling

Facilities are required to submit the Criteria Pollutant Emissions Certification Statement certifying facility totals for calendar year 2006 emissions by March 31, 2007, or other date directed by the Secretary in accordance with LAC 33:III.919.D. For all facilities, including but not limited to the affected sources identified below, the Department has extended to July 1, 2007, the deadline for submitting calendar year 2006 emission point level data. Owners and operators who submit the aforementioned data in the format prescribed by the Department by the deadlines specified will be found compliant with LAC 33:III.918 and 919, regardless of any permit specific condition language to the contrary.

This change in the submittal schedule for emission inventory data is for reporting of calendar year 2006 data only.

Reasons for Ruling

This extension of the deadline for submittal of the emission point level data will enable facilities to submit data through the new emissions inventory reporting system and alleviate difficulties associated with reporting and processing data in the current, outdated system. Allowing the 90-day extension for facilities to submit emission point level data will not have a negative impact on data availability. The new system has been designed such that emission inventory data will be readily available for assessment and dissemination, while data submitted via the existing system was typically not available for six months or more following the March 31 submission date.

Affected Sources

Affected sources [listed under Declaratory Ruling 2007-001 at: www.deq.louisiana.gov/portal/Default.aspx?tabid=109] were identified in accordance with the procedures described in Potpourri Notice 0612Pot4, published in the *Louisiana Register* on December 20, 2006.

In accordance with LAC 33:I.1149.B.3, this declaratory ruling shall be published in the *Louisiana Register*.

Date: March 13, 2007

Signed: Mike D. McDaniel, Ph.D.
Secretary

For more information contact Jennifer Mouton, Office of Environmental Assessment, Air Quality Assessment Division, at (225) 219-3427.

Herman Robinson, CPM
Executive Counsel

0704#032

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Affairs Division

2006 State Implementation Plan (SIP) General Revisions

Under the authority of the Environmental Quality Act, R.S. 30:2051 et seq., the secretary gives notice of proposed general revisions to the air quality State Implementation Plan (SIP). The revisions include amendments to various air quality regulations in LAC 33:III.Chapters 1, 5, 6, 7, 9, and 23, which were previously promulgated in 2006, and which were not previously included in other revisions to the SIP.

A public hearing will be held on May 30, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, Louisiana. Interested persons are invited to attend and submit oral comments on the proposed revisions. Should individuals with a disability need an accommodation in order to participate, contact Judith Schuerman, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 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 2006 SIP general revisions. Comments must be submitted no later than 4:30 p.m. on June 6, 2007. Comments should be mailed to Sandra Hilton, Office of Environmental Assessment, Plan Development Section, Box 4314, Baton Rouge, LA 70821-4314 or faxed to (225) 219-3582. Copies of this document can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. A check or money order is required in advance for each copy of the document.

A copy of the general revisions to the SIP may be viewed Monday through Friday, from 8 a.m. to 4:30 p.m., at the following DEQ locations: 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; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374 or on the Internet at www.deq.louisiana.gov/portal/tabid/2644/Default.aspx.

Summary of Rules Promulgated in 2006			
LAC 33:III	Louisiana Register Citation	Description	Comments
§919	February 2006 LR 32:241 AQ 255	Emissions Inventory	Replaces the term 1-hour with the term 8-hour.
§111	September 2006 LR 32:1598 AQ 253	8-Hour Ambient Ozone Standard and Nonattainment New Source Review	Replaces 1-hour ozone standard with 8-hour standard and revises NNSR provisions.
§504	September 2006 LR 32:1598 AQ 253	8-Hour Ambient Ozone Standard and Nonattainment New Source Review	Revises NNSR provisions for parishes classified as severe under the 1-hour ozone standard to marginal under the 8-hour ozone standard.
§509	September 2006 LR 32:1598 AQ 253	8-Hour Ambient Ozone Standard and Nonattainment New Source Review	NO _x is added as a regulated pollutant for PSD.
§607	September 2006 LR 32:1598 AQ 253	8-Hour Ambient Ozone Standard and Nonattainment New Source Review	Replaces the 1-hour ozone standard with 8-hour standard.
§709	September 2006 LR 32:1598 AQ 253	8-Hour Ambient Ozone Standard and Nonattainment New Source Review	Adds PM _{2.5} as a primary ambient air quality standard.
§711	September 2006 LR 32:1598 AQ 253	8-Hour Ambient Ozone Standard and Nonattainment New Source Review	Adds PM _{2.5} as a primary ambient air quality standard.
§501	October 2006 LR 32:1847 AQ 240	New or Revised Emissions Estimation Methodologies	The department can review apparent discrepancies between permitted emissions and reported actual emissions.
§2301	October 2006 LR 32:1840 AQ 264	Control of Emissions from the Chemical Woodpulp Industry	Provides total reduced sulfur and opacity exemptions from LAC 33:III.2301 for sources subject to NSPS BB.
§513.A	October 2006 LR 32:1854 AQ267	General Permits, Temporary Sources, and Relocation of Portable Facilities	Clarifies that general permit requirements for minor sources do not require EPA review and publication of notice.
§505	October 2006 LR 32:1841 AQ 268	Public Notice and Affected State Notice	The term "draft permit" is replaced with the term "proposed permit."
§509	October 2006 LR 32:1842 OS 070	Cleanup Package (LAC 33:1.705 and 909; III.509; V.2299; IX.107 and 7107; XI.301; and XV.102 and 399)	Corrected an error in a citation.

Herman Robinson, CPM
Executive Counsel

0704#034

POTPOURRI

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

New Orleans Area Ozone Maintenance Plan

Under the authority of the Louisiana Environmental Quality Act, R. S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Assessment, Plan Development Section, will submit a proposed revision to the ozone maintenance plan for the New Orleans Area, which

includes the parishes of Jefferson, Orleans, St. Bernard, and St. Charles. This revision to the State Implementation Plan (SIP) is mandated under Section 110(a)(1) requirements of the 1990 Clean Air Act Amendments (CAAA).

According to EPA guidance issued May 20, 2005, areas that are designated attainment for the 8-hour ozone National Ambient Air Quality Standards (NAAQS) and are designated attainment for the 1-hour ozone NAAQS with an approved maintenance plan must submit a revision to the SIP.

A public hearing will be held at 1:30 p.m. on May 30, 2007, in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA. Should individuals with a disability need an accommodation in order to participate, please contact Vivian H. Aucoin at (225) 219-3575 or at the address listed below. Interested persons are invited to attend and submit oral comments on the proposal.

All interested persons are invited to submit written comments concerning the SIP revision no later than 4:30 p.m., June 6, 2007, to Vivian H. Aucoin, Office of Environmental Assessment, Box 4314, Baton Rouge, LA 70821-4314 or to FAX (225) 219-3582 or by e-mail to vivian.aucoin@la.gov.

A copy of the SIP revision for the New Orleans Area may be viewed from 8 a.m. to 4:30 p.m. in the DEQ Public Records Center, Room 127, 602 N. Fifth Street, Baton Rouge, LA, or at the Southeast Regional Office, located at 645 N. Lotus Drive, Suite C, Mandeville, LA 70471. The document is available on the Internet at www.deq.louisiana.gov/portal/Default.aspx?tabid=2381.

Herman Robinson, CPM
Executive Counsel

0704#033

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Toxic Air Pollutant Ambient Air Standards (LAC 33:III.5112)

The Louisiana Department of Environmental Quality is developing revisions to the ambient air standards (AAS) for toxic air pollutants (TAPs) in LAC 33:III.Chapter 51, and specifically found in LAC 33:III.5112.Table 51.2 (AQ281). In this advanced notice of rulemaking, the department proposes to:

- retain methyl ethyl ketone (MEK) as a state TAP on the supplemental list even though MEK has been delisted as a federal hazardous air pollutant;
- establish more stringent AAS for 16 TAPs;
- establish less stringent AAS for 6 TAPs;
- reclassify 7 TAPs; and

- list a short term (8-hour) average for the first time, in addition to a long term (annual) average, for many Class 1 TAPs.

The department requests all interested parties to submit comments on the advanced draft rule prior to formal proposal of this rule. In addition to the technical content of the document, the department is requesting comments on the estimated cost to implement this regulation as written.

Comments are due no later than 4:30 p.m., May 21, 2007, and should be submitted to James Orgeron, Office of Environmental Assessment, Plan Development Section, Box 4314, Baton Rouge, LA 70821-4314 or faxed to (225) 219-3582 or by e-mail to james.orgeron@la.gov. Persons commenting should reference this document as AQ281. If you have any questions regarding this document please contact James Orgeron at (225) 219-3578. The draft regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Copies of the draft 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 AQ281.

The draft regulations are 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; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

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

Table 51.1 Minimum Emission Rates Toxic Air Pollutants Class I. Known and Probable Human Carcinogens			
Compounds	CAS Number	Synonyms	Minimum Emission Rate (Pounds/year)
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]			

Table 51.1 Minimum Emission Rates Toxic Air Pollutants Class II. Suspected Human Carcinogens and Known or Suspected Human Reproductive Toxins			
Compounds	CAS Number	Synonyms	Minimum Emission Rate (Pounds/year)
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

Table 51.1 Minimum Emission Rates Toxic Air Pollutants Class II. Suspected Human Carcinogens and Known or Suspected Human Reproductive Toxins			
Compounds	CAS Number	Synonyms	Minimum Emission Rate (Pounds/year)
* * *			
[See prior text in Carbon tetrachloride – Xylene (mixed isomers) [9]]			

Table 51.1 Minimum Emission Rates Toxic Air Pollutants Class III. Acute and Chronic (Non-Carcinogenic) Toxins			
Compounds	CAS Number	Synonyms	Minimum Emission Rate (Pounds/year)
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	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]. ...

Table 51.2 Louisiana Toxic Air Pollutant Ambient Air Standards				
Compounds	CAS Number	Class	Ambient Air Standard	
			($\mu\text{g}/\text{m}^3$ *) (8 Hour Avg.)	($\mu\text{g}/\text{m}^3$ **) (Annual Avg.)
Acetaldehyde	75-07-0	II		45.50 [14]
Acetaldehyde	75-07-0	II		9.00 [15]
Acetonitrile	75-05-8	III	810.00 [14]	
Acrolein	107-02-8	III	5.40	
Acrylamide	79-06-1	I	7.14 [15]	0.08
Acrylic acid	79-10-7	III	140.0	
Acrylonitrile	107-13-1	I	103.10 [15]	1.47
Allyl chloride	107-05-1	II	71.40	
Ammonia [11]	7664-41-7	III	405.00 [15]	
Ammonia [11]	7664-41-7	III	640.00 [14]	
Aniline	62-53-3	II	181.00	
Antimony (and compounds) [1]	7440-36-0	III	11.90	
Arsenic (and compounds) [1] [15]	7440-38-2	I	0.24 [15]	0.02
Barium (and compounds) [1]	7440-39-3	III	11.90	
Benzene	71-43-2	I		12.00 [14]
Benzene	71-43-2	I	71.43 [15]	30.00 [15]
Beryllium (and compounds) [1]	7440-41-7	I	0.05 [15]	0.04
Biphenyl	92-52-4	II	23.80	
Bis (2-chloroethyl) ether	111-44-4	II		0.30
1,3-Butadiene	106-99-0	I		0.92 [14]
1,3-Butadiene	106-99-0	I	104.76 [15]	2.00 [15]
n-Butyl alcohol	71-36-3	III	3,620.00 [14]	
n-Butyl alcohol	71-36-3	III	1452.00 [15]	
Cadmium (and compounds) [1]	7440-43-9	I	0.12 [15]	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	

**Table 51.2
Louisiana Toxic Air Pollutant Ambient Air Standards**

Compounds	CAS Number	Class	Ambient Air Standard	
			($\mu\text{g}/\text{m}^3$) (8 Hour Avg.)	($\mu\text{g}/\text{m}^3$) (Annual Avg.)
Chloroform	67-66-3	II		4.30
Chloromethane	74-87-3	II		55.56 [14]
Chloromethane	74-87-3	II		90.00 [15]
Chloroprene	126-99-8	II	857.00	
Chromium VI (and compounds) [1] [15]	7440-47-3	I	2.38 [15]	0.01
Copper (and compounds) [1]	7440-50-8	II	23.80	
Cresol [4]	1319-77-3	III	238.00 [14]	
Cresol [4]	1319-77-3	III	300.00 [15]	
Cumene	98-82-8	III	5,860.00	
Diaminotoluene	25376-45-8	II	181.00	
1,2-Dibromoethane	106-93-4	I		0.45 [14]
1,2-Dibromoethane	106-93-4	I	3642.86 [15]	0.17 [15]
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 [14]	
1,4-Dioxane	123-91-1	II	107.00 [15]	
Epichlorohydrin	106-89-8	I	452.38 [15]	1.00 [15]
Epichlorohydrin	106-89-8	I		83.00 [14]
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 [15]	1.00
Formaldehyde	50-00-0	I	21.90 [15]	7.69

[See prior text in Glycol ethers [6] – Hydrazine]				
Hydrochloric acid	7647-01-0	III	180.00 [14]	
Hydrochloric acid	7647-01-0	III	71.00 [15]	
Hydrofluoric acid	7664-39-3	III	61.90 [14]	
Hydrofluoric acid	7664-39-3	III	9.80 [15]	
Hydrogen cyanide	74-90-8	III	260.00 [14]	
Hydrogen cyanide	74-90-8	III	120.00 [15]	
Hydrogen sulfide	7783-06-4	III	330.00	
Maleic anhydride	108-31-6	III	23.80 [14]	
Maleic anhydride	108-31-6	III	9.50 [15]	
Manganese (and compounds) [1]	7439-96-5	II	4.76	
Mercury (and compounds) [1]	7439-97-6	II	1.19 [14]	
Mercury (and compounds) [1]	7439-97-6	II	0.24 [15]	

[See prior text in Methanol - Methyl isobutyl ketone]				
Methyl methacrylate	80-62-6	III	9,760.00 [14]	
Methyl methacrylate	80-62-6	III	4881.00 [15]	
Naphthalene (and Methyl naphthalenes) [12]	91-20-3	II	1,190.00	
Nickel (and compounds) [1]	7440-02-0	I	23.81 [15]	0.21
Nickel (refinery dust) [1]	7440-02-0	I	35.71 [15]	0.42

[See prior text in Nitric acid - Polynuclear aromatic hydrocarbons [7]]				
Propionaldehyde	123-38-6	III	4,290.00 [14]	
Propionaldehyde	123-38-6	III	1143.00 [15]	
Propylene oxide	75-56-9	I	5714.29 [15]	27.00
Pyridine	110-86-1	III	381.00 [14]	
Pyridine	110-86-1	III	74.00 [15]	
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 [14]	
Sulfuric acid	7664-93-9	III	4.76 [15]	

[See prior text in 1,1,2,2 Tetrachloroethane – Trichloroethylene]				
Vinyl acetate	108-05-4	III	830.00 [14]	

Compounds	CAS Number	Class	Ambient Air Standard	
			($\mu\text{g}/\text{m}^3$ *) (8 Hour Avg.)	($\mu\text{g}/\text{m}^3$ **) (Annual Avg.)
Vinyl acetate	108-05-4	III	446.00 [15]	
Vinyl chloride	75-01-4	I		1.19 [14]
Vinyl chloride	75-01-4	I	61.90 [15]	11.36 [15]
Vinylidene chloride	75-35-4	II		2.00 [14]
Vinylidene chloride	75-35-4	II		200.00 [15]
Xylene (mixed isomers) [9]	1330-20-7	II	10,300.00	
Zinc (and compounds) [1] [10] [15]	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 $\mu\text{g}(\text{x})/\text{m}^3$, 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] Effective until [insert date 3 years from promulgation of this rule].

[15] 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.

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:

Herman Robinson, CPM
Executive Counsel

0704#031

POTPOURRI

**Board of Commissioners of the
Lake Charles Harbor and Terminal District**

Port Directive 2007-001—Activity in
Calcasieu Ship Channel

Preamble: Under the authority of La. R.S. 34:201 et al, the provisions of Port of Lake Charles Tariff No. 012 as amended (the Tariff) and by Gubernatorial Designation, the Lake Charles Harbor and Terminal District (the Port) has been authorized and empowered by the State of Louisiana to act as the State's Representative and the Local Sponsor for the Calcasieu River and Pass Channel (the Channel) for the purposes of "... construction, operation and maintenance of

the aforesaid navigation project." The Gubernatorial Designation declares that the Calcasieu River and Pass Channel is of "... inestimable value to the immediate area in which it is situated and through which it passes" and to the "State of Louisiana and the City of Lake Charles, Louisiana, the Lake Charles Harbor and Terminal District; and Cameron Parish and Town of Cameron, Louisiana." Thus, it is clear from the Gubernatorial Designation that the Port is expected to participate in the "construction, operation and maintenance" of the channel in a manner that inures to the benefit of all who share in its value.

As part of its responsibility to the channel beneficiaries and users, the port has expended significant funds to secure dredging rights of way and dredged material disposal easements, and has cost shared with the U.S. Army Corps of Engineers in projects that inure to the benefit of all channel beneficiaries and users. The port's recently adopted five year strategic plan anticipates spending millions of dollars more on projects to improve the channel for all beneficiaries and users.

In the past, certain activities have taken place in the channel that pose an inordinate risk to normal, efficient channel operations and threaten the investment made by the port in the channel and the investment made by other channel beneficiaries and users in facilities along the channel, to wit: operations that involve the submerging of a vessel or structure within the navigation channel or the salvage of a vessel that has experienced a casualty outside of the channel. In many cases submersible vessels make use of an area known as the Cameron Hole, a deep area of the channel located at approximately Mile 3 on the inland portion of the channel. This is the proposed location for the Creole Trail LNG Terminal and, as such, submersible

operations in this area will pose an even greater risk to Channel operations than in the past.

Port Directive: In accordance with law and the Tariff, specifically Item 324, and in order to minimize the dangers to Channel operations posed by these and other inherently risky operations, the Port issues the following regulation:

No activity which involves submerging a vessel or structure within the Channel or close enough to the Channel where a casualty could impact normal Channel operations is permitted without the prior written permission of the Port Director of the Lake Charles Harbor and Terminal District.

No activity which involves the salvage of a vessel that has experienced a casualty outside the channel shall take place within the channel or close enough to the channel where a further casualty could impact normal channel operations is permitted without the prior written permission of the Port Director of the Lake Charles Harbor and Terminal District.

No activity involving an unseaworthy vessel shall take place within the channel or close enough to the channel where a casualty could impact normal channel operations is permitted without the prior written permission of the Port Director of the Lake Charles Harbor and Terminal District.

No activity of any vessel that could reasonably be assumed to potentially have a negative impact on the channel, except normal and ordinary transits of seaworthy vessels, shall take place within the channel or close enough to the channel where a casualty could impact normal channel operations is permitted without the prior written permission of the Port Director of the Lake Charles Harbor and Terminal District.

Requests for permission to engage in the activities outline herein must be made in writing to the Director of Navigation and Security for the Port.

The Port Director will grant or deny permission to engage in the activities outline herein in consultation with the Director of Navigation and Security for the Port.

Nothing herein shall apply to a vessel in distress where the application of this directive may reasonably be assumed to cause, or increase, a threat to life or the catastrophic loss of property, provided no other alternatives to preventing the loss of life or the catastrophic loss of property are readily available.

Enforcement: The Port Director is authorized to issue and enforce this directive in accordance with Items 324, 325 and 340 of the Tariff. Additionally, the Port Director, in his or her discretion, may seek, without further action or approval of the Board of Commissioners of the Lake Charles Harbor & Terminal District, appropriate judicial enforcement of the provisions of this directive.

Done and signed this 26th day of February in the year 2007.

R. Adam McBride
Port Director

0704#072

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Tripower Resources Inc.	East Cameron Block 17	L	SL 15410	1	156996
Tripower Resources Inc.	East Cameron Block 17	L	SL 15410	2	193038

James H. Welsh
Commissioner

0704#041

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

Reported Underwater Obstructions

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 20 claims in the amount of \$76,119.26 were received for payment during the period March 1, 2007 - March 31, 2007.

There were 19 claims paid and 1 claim denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2904.047	9047.845	Terrebonne
2904.673	9014.618	Lafourche
2909.574	9005.772	Jefferson
2914.341	9004.740	Lafourche
2918.200	8945.700	Plaquemine
2920.214	9043.957	Terrebonne
2921.058	8909.578	Plaquemines
2922.193	8941.083	Port Sulphur
2923.546	8958.189	Jefferson
2925.385	9136.885	St. Mary
2941.548	8921.938	St. Bernard
2941.799	9021.196	Lafourche
2942.816	8934.757	St. Bernard
2943.054	8938.583	St. Bernard
2943.429	8930.900	St. Bernard
2948.630	8950.500	St. Bernard
2949.754	8916.602	Orleans
2950.467	8938.220	St. Bernard
2953.661	8946.082	St. Bernard
2958.286	8956.396	St. Bernard

A list of claimants and amounts paid can be obtained from Marjorie McClinton, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225)342-0122.

Scott A. Angelle
Secretary

0704#013

POTPOURRI

**Department of Public Safety and Corrections
State Uniform Construction Code Council**

Uniform Construction Code—Substantive Changes Hearing
(LAC 55:VI.905)

In accordance with the provisions of R.S. 49:968(H)(2), the Louisiana State Uniform Construction Code Council will hold a public hearing in accordance with the following:

Date: Monday, May 21, 2007

Time: 10:00 a.m.

Location: Department of Public Safety and Corrections
7979 Independence Blvd., Baton Rouge, La. 70806
Third Floor, Suite 308, Training Room.

The original Notice of Intent may be viewed on page 586 of the March 20, 2007 *Louisiana Register*. The proposed amendments to §905 will read as follows.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 9. Temporary Exemption to Certification Requirement

§905. Third Party Providers.

A. Third party providers who are Louisiana licensed architects or engineers and who obtain a certificate of registration after January 1, 2007, shall be granted a provisional certificate for registration without certification by a recognized code organization. This provisional certificate shall expire on December 31, 2007. Thereafter, any third party provider renewing this Certification of Registration shall satisfy the certification requirement(s) as set forth in §703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, State Uniform Construction Code Council, LR 33:

Anyone wishing to obtain further information regarding this public hearing may contact Paeton Burkett at (225) 922-0788.

Jill Boudreaux
Acting Undersecretary

0704#070

POTPOURRI

**Department of Revenue
Policy Services Division**

Natural Gas Severance Tax Rate

The natural gas severance tax rate effective July 1, 2007 through June 30, 2008 has been set at 26.9 cents per thousand cubic feet (MCF) measured at a base pressure of 15.025 pounds per square inch absolute and at the temperature base of 60 degrees Fahrenheit.

This tax rate is set each year by multiplying the natural gas severance tax base rate of 7 cents per MCF by the "gas base rate adjustment" determined by the Secretary of the Department of Natural Resources in accordance with R.S. 47:633(9)(d)(i). The "gas base rate adjustment" is a fraction, of which the numerator is the average of the New York Mercantile Exchange (NYMEX) Henry Hub settled price on the last trading day for the month, as reported in the Wall Street Journal for the previous 12-month period ending on March 31, and the denominator is the average of the monthly average spot market prices of gas fuels delivered into the pipelines in Louisiana as reported by the Natural Gas Clearing House for the 12-month period ending March 31, 1990 (1.7446 \$/MMBTU).

Based on this computation, the Secretary of the Department of Natural Resources has determined the natural gas severance "gas base rate adjustment" for April 1, 2006, through March 31, 2007, to be 383.78 percent. Applying this gas base rate adjustment to the base tax rate of 7 cents per MCF produces a tax rate of 26.9 cents per MCF effective July 1, 2007, through June 30, 2008. The reduced natural gas severance tax rates provided for in R.S. 47:633(9)(b) and (c) remain the same.

The "gas base rate adjustment" and the "gas tax rate" are being published as required by R.S. 47:633(9)(d)(i). Questions concerning the natural gas severance tax rate should be directed to the Taxpayer Services Division, Severance Tax Section at 225-219-7656, Option 3.

Cynthia Bridges
Secretary

0704#047

POTPOURRI

**Department of Revenue
Policy Services Division**

Oil Spill Contingency Fee

The Oil Spill Prevention and Response Act, R.S. 30:2451 et seq., provides a two cent per barrel oil spill contingency fee on crude oil at the time that it is transferred to or from a

vessel at a marine terminal within the state. R.S. 30:2486 provides that the fee is to be collected until the Oil Spill Contingency Fund reaches \$7 million, at which time collection will be suspended until the balance in the fund falls below \$5 million. Collection of the fee has been suspended since May 1, 2003. On March 19, 2007, the State Treasurer notified the Secretary of the Department of Revenue that the Oil Spill Contingency Fund balance has fallen below \$5 million. Therefore, collection of the fee will resume May 1, 2007. Returns must be filed quarterly on or before the last day of the month following the calendar quarter to which the fee applies. The first return, covering the second quarter of 2007, is due by July 31, 2007.

Marine terminal operators within the state collect the fee from the crude oil owners when the oil is transferred to or from the vessel at the marine terminal. This fee is imposed on foreign and domestic oil transferred in the state, regardless of its origination or destination. The fee is only collected once on the same crude oil. If more than one marine terminal facility handles the same oil, the other marine terminal operators must obtain an affidavit certifying payment of the fee to the Department of Revenue from the marine terminal operator who paid the fee.

For the purposes of the Act, marine terminals are defined as “any terminal facility within the state of Louisiana used for transferring crude oil to or from vessels” and vessels are defined to include “every description of watercraft or other contrivance used or capable of being used as a means of transportation on water, whether self-propelled or otherwise, including barges.”

The reinstatement of the oil spill contingency fee is being published as required by R.S. 30:2487(A). Questions concerning the oil spill contingency fee should be directed to

the Taxpayer Services Division, Severance Tax Section at (225) 219-7656, Option 3.

Cynthia Bridges
Secretary

0704#050

POTPOURRI

**Department of Revenue
Policy Services Division**

Withholding Tax at the Source (LAC 61:I.1511)

The Notice of Intent which proposes to adopt LAC 61:I.1511 to address withholding of income tax at the source was published in the March 2007 publication of the Louisiana Register. A public hearing is scheduled for Wednesday, April 25, 2007, at 1:30 p.m. in the Calcasieu Room located on the second floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

However, several requests have been received requesting more time to fully ascertain the effects of this rule, therefore the department will hold a second public hearing, Thursday, May 24, 2007 at 1:30 p.m. in the Calcasieu Room located on the second floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be submitted no later than 4:30 p.m., Wednesday, May 23, 2007.

Cynthia Bridges
Secretary

0704#048

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