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This public document was published at a total cost of $1,425.00. Five hundred copies of this public document were published in this monthly printing at a cost of $1,425.00. The total cost of all printings of this document including reprints is $1,425.00. This document was published by Moran Printing, Inc. 5425 Florida Boulevard, Baton Rouge, LA 70806, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 981-999. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

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Executive Orders

EXECUTIVE ORDER KBB 05-11

State Employee Drug Testing Policy

WHEREAS, Executive Order No. KBB 2005-8, issued on March 18, 2005, reestablished the statewide policy on rules and procedures for drug testing state employees; and

WHEREAS, it is necessary to amend Executive Order No. KBB 2005-8 in order to modify certain provisions;

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: Section 3 of Executive Order No. KBB 2005-8, issued on March 18, 2005, is amended as follows:

A. No drug testing of an employee or a prospective employee shall occur in the absence of a duly promulgated written policy which is in full compliance with the provisions of R.S. 49:1001, et seq.

B. Any employee drug testing program in existence on the effective date of this Order shall not be supplanted by the provisions of this Order, but shall be supplemented, where appropriate, in accordance with the provisions of this Order and R.S. 49:1001, et seq.

SECTION 2: All other sections, subsections, and paragraphs of Executive Order No. KBB 2005-8 shall remain in full force and effect.

SECTION 3: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.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 7th day of April, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0505#072

EXECUTIVE ORDER KBB 05-12

Bond Allocation Procedures

WHEREAS, Section 146 of the Internal Revenue Code of 1986 (hereafter "the Act"), as amended (hereafter "the Code"), restricts the total principal amount of certain private activity Bonds which exclude interest from gross income for federal income tax purposes under Section 103 of the Code, including the portion of government use Bonds allocated to non-governmental use as required by the Act (hereafter "Bonds") which may be issued within the state of Louisiana during each calendar year to a dollar amount determined by:

(a) multiplying $80 times the population of the state, based on the most recently published estimate of the population for the state of Louisiana released by the United States Bureau of Census before the beginning of each such calendar year, and

(b) multiplying such amount by the cost of living adjustment, as determined pursuant to the Act;

WHEREAS, Act No. 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter "Act No. 51 of 1986") authorizes the governor to allocate the volume limit applicable to the Bonds (hereafter "the ceiling") among the state and its political subdivisions in such a manner as the governor deems to be in the best interest of the state of Louisiana;

WHEREAS, pursuant to the authorization of both the Act and Act No. 51 of 1986, the governor hereby elects to:

(a) provide for the manner in which the ceiling shall be determined,

(b) establish the method to be used in allocating the ceiling,

(c) establish the application procedure for obtaining an allocation of Bonds subject to such ceiling, and

(d) establish a system of record keeping for such allocations; and

WHEREAS, it is necessary to replace Executive Order KBB 2004-21, issued on July 12, 2004, in order to reflect a modification in the calculation of the ceiling;

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: DEFINITIONS

A. Each abbreviation provided in the preamble of this Order, *supra*, shall have the same meaning throughout all the sections, subsections, and paragraphs of this Order.

B. The following definitions shall apply:

1. "Economic Development Bonds" means all types of Bonds subject to the ceiling other than Industrial Bonds, Housing Bonds, and Student Loan Bonds;

2. "Housing Bonds" means Bonds subject to the ceiling and issued to provide housing described under Section 142(d) of the Code ("Qualified Residential Rental Project Bonds"), or issued to provide housing under Section 143 of the Code ("Qualified Mortgage Bonds");

3. "Industrial Bonds" means Bonds for manufacturers, as defined by North American Industry Classification System (NAICS) codes 113310, 211, 213111, 541360, 311-339, 511-512 and 54171, or facilities financed as part of the Department of Health and Hospitals' Drinking Water Revolving Loan Fund, which Bonds subject to the ceiling are:

(1) designated as "exempt facility Bonds" in Section 142(a) of the Code (other than Housing Bonds), or

(2) issued for facilities to treat, abate, reduce, or eliminate air or water pollution pursuant to the transition rules of the Tax Reform Act of 1986;

4. "Issuer" or Issuers" means any entity or entities now or hereafter authorized to issue Bonds under the Louisiana Constitution of 1974, as amended, or the laws of the state of Louisiana; and

5. "Student Loan Bonds" means Bonds subject to the ceiling and issued under the authority of Section 144(b) of the Code.

C. Any term not defined in this Order shall have the same meaning as in the Act.

SECTION 2: DETERMINATION OF CEILINGS FOR 2004 AND THEREAFTER

A. The sum of three hundred fifty-nine million, seven hundred six thousand, seven hundred twenty dollars ($359,706,720) represents the amount of the ceiling determined by the staff of the Louisiana State Bond Commission (hereafter "the SBC staff") for the year of 2004 pursuant to the provisions of the Act.

B. On or before January 15, 2005, and on or before the fifteenth (15) day of each subsequent calendar year during the life of this Order, the SBC staff shall determine the amount of the ceiling for each calendar year in the manner set forth in the Act. Upon determining the amount of the ceiling, the SBC staff shall promptly notify the governor in writing of the amount determined.

SECTION 3: GENERAL ALLOCATION POOL; METHOD OF ALLOCATION

A. A pool, designated as the "General Allocation Pool", shall be hereby created. The entire ceiling for each calendar year shall be automatically credited to the General Allocation Pool. Allocations for all types of Bonds that require allocations from the ceiling under the Act may be requested, and granted, from this General Allocation Pool. During the calendar year of 2004, and in each calendar year thereafter, at the discretion of the governor, amounts shall be initially reserved for allocations from the General Allocation Pool as follows:

1. Until September 1 of each year, an amount equal to fifty (50) percent of the General Allocation Pool shall be reserved for allocations for Housing Bonds;

2. Until September 1 of each year, an amount equal to twenty-five (25) percent of the General Allocation Pool shall be reserved for allocations for Student Loan Bonds;

3. Until September 1 of each year, an amount equal to twenty (20) percent of the General Allocation Pool shall be reserved for allocations for Economic Development Bonds; and

4. Until September 1 of each year, an amount equal to five (5) percent of the General Allocation Pool shall be reserved for allocations for Industrial Bonds.

B. On September 1 of each year, any amounts remaining and not allocated for the purposes described in Section 3(A) (1) through (4) shall be combined, and allocations from such amounts remaining shall be granted, at the discretion of the governor, without regard to any reservation for particular use.

C. The allocation of the ceiling from the General Allocation Pool shall be considered by the governor on the basis of criteria established by the governor.

D. The issuance of an executive order by the governor, awarding a portion of the ceiling to a particular issue of Bonds, shall be evidence of each allocation granted pursuant to this Order. A copy of such an executive order shall be promptly furnished to the Louisiana State Bond Commission.

SECTION 4: APPLICATION PROCEDURE FOR ALLOCATIONS

A. All issuers in and of the state of Louisiana may apply for allocations.

B. An issuer who proposes to issue Bonds for a specific project or purpose must apply for an allocation of a portion of the ceiling for the particular project or purpose by submitting an application to the SBC staff. The application form, if any, may be revised from time to time at the discretion of the governor. However, at a minimum, all applications must contain the following information:

1. The name and the address of the issuer of the Bonds;

2. In the case of Bonds, other than Student Loan Bonds or Qualified Mortgage Bonds, the name and mailing address of:

(1) the initial owner or operator of the project,

(2) an appropriate person from whom information regarding the project can be obtained, and

(3) the person to whom notification of the allocation should be made;

3. If required by the Code, the date of adoption by the issuer of an inducement resolution adopted for the purpose of evidencing "official intent";

4. The amount of the ceiling which the issuer is requesting be allocated for the project or purpose of the application, including, without limitation, a statement of the minimum amount of allocation that will support the issuance of the Bonds and a general description of the project (including the address or other description of its location) or the purpose to be financed; and

5. In the case of Housing Bonds for Qualified Residential Rental Project Bonds, the following criteria must be included on the application for the project:

(a) Identify whether the project promotes neighborhood revitalization and/or in-fill development, including new development on vacant or adjudicated properties, and whether the buildings are complimentary to the existing architecture in the neighborhood;

(b) Identify whether the project is for scattered site single-family units, or, if the project is for a multiple unit dwelling or dwellings, the number of buildings in the project and the number of units that each dwelling contains;

(c) Identify whether the project is located proximate to a central business district or within a targeted area within the meaning of the Internal Revenue Code of 1986, as amended;

(d) Identify whether the project leverages other governmental or private equity funds and/or governmental incentives, and, if so, what the sources and amounts are; and

(e) Identify whether a workforce training program is a component of the project's development plan.

6. In the case of Industrial Bonds and Economic Development Bonds requested for manufacturing purposes, the following criteria must be included on the application:

(a) Identify the North American Industrial Classification System code reported to the federal government and the Department of Labor;

(b) Report the economic impact over ten years as determined by the Department of Economic Development;

(c) Identify the number of jobs to be created and/or retained and the average salary for both new and retained jobs as well as the amount of the capital investment made or to be made; and

(d) Identify other state programs that provide any financial or business incentives as part of this expansion or new location;

7. Either:

(1) a bond purchase agreement or other written commitment to purchase the Bonds for which an allocation is requested, executed by one or more purchasers, setting forth in detail the principal and interest payment provisions and the security for the Bonds, accepted by the issuer or the beneficiary of the Bonds;

(2) in the case of a public offering of the Bonds for which the allocation from the ceiling is requested, a binding bond purchase or underwriting agreement obligating the underwriter or underwriters to sell or purchase the Bonds within ninety (90) days of the receipt of an allocation, setting forth in detail the proposed principal and interest payment provisions and the security for the Bonds, accepted by the issuer or the beneficiary of the Bonds; or

(3) a $7,500 escrow deposit which will be forfeited in the event the Bonds for which an allocation is granted are not delivered prior to the expiration of such allocation as provided in Section 4(E). The $7,500 escrow deposit shall be returned to the party depositing the same without interest upon the substitution of the items described in (1) or (2), *supra*, or delivery of the Bonds within the allocation period. In the event that such Bonds are not delivered within the allocation period, the deposit shall be forfeited and deposited in the State Treasury, unless the failure to deliver such Bonds is the result of the Louisiana State Bond Commission denying approval of such Bonds, in which case the deposit shall be returned to the party depositing same, without interest;

8. A specific date as to when the bond allocation is required and when the project financing is intended to close;

9. A schedule showing the project time or projected timing of the use of the bond proceeds;

10. Information necessary to evidence compliance with the criteria established by the governor; and

11. A letter from bond counsel, addressed to the governor, expressing that the Bonds for which an allocation is requested are subject to the ceiling.

C. Upon receipt of the application required by Section 4(B), the SBC staff shall determine if the requirements of Section 4(B) have been met. When it is determined the requirements have been met, the SBC staff shall immediately forward a copy of the application to the governor.

D. Until September 1 of each year, the maximum amount of allocation that may be granted for any project or purpose in any calendar year (other than for Qualified Mortgage Bonds issued by the Louisiana Housing Finance Agency or Student Loan Bonds) shall not exceed the greater of thirty million dollars ($30,000,000) or fifteen (15) percent of the ceiling for that year. If an issuer submits a request for an allocation that is in excess of this authorized amount, the SBC staff shall retain the application for consideration of the allocation of additional amounts, which may only be granted on or after September 1 of that year.

E. Any allocation from the ceiling (other than carry forward allocations described in Section 4(H), *infra*) shall expire unless the Bonds receiving the allocation are delivered by the earlier of:

(1) ninety (90) days from the date of notice of allocation is mailed to the person designated, or

(2) December 27th of the calendar year granted. In the event the allocation of the ceiling for a particular project or purpose expires as provided in this section, the issuer may resubmit its application for an allocation of a portion of the ceiling for such project or purpose. The application of the issuer relating to such project or purpose shall be reviewed in chronological order of receipt of the resubmission.

F. On September 1 of each year, the SBC staff shall determine the remaining amounts of the ceiling and shall submit to the governor for consideration all applications for allocations of Bonds in excess of the permitted amounts.

G. The SBC staff shall maintain accurate records of all allocations and all Bonds delivered. All issuers of Bonds that have received an allocation shall notify the SBC staff of the delivery of Bonds within five (5) days after the delivery of such Bonds and shall specify the total principal amount of Bonds issued. The SBC staff shall provide to any person so requesting, within a reasonable time:

(1) the amount of unallocated ceiling remaining on the date such request is made;

(2) a list of allocations (naming the issuer and amount of allocation) which have been made and the date of each allocation;

(3) a list of applications being held by the SBC staff which have requested a larger allocation than permitted; and

(4) a list of Bonds which have been given an allocation and have been delivered.

H. If the ceiling exceeds the aggregate amount of Bonds issued during any year by all issuers, the governor may allocate such to issuers for use as a carry forward for one or more carry forward projects permitted under the Act by issuing an executive order for all carry forward projects for which an application has been submitted that contains the elements required by Section 4(B), and for which a request to be treated as a carry forward project has been received by the SBC staff. The SBC staff shall notify the issuers which are allocated a portion of the ceiling for a carry forward project at least five (5) days prior to the last date an election to carry forward a portion of the ceiling may be made.

I. This Order only relates to Bonds subject to the private activity bond volume limitation set forth in the Act. No issuer shall apply for or be entitled to an allocation from the ceiling for Bonds that are not subject to the private activity bond volume limitation set forth in the Act.

J. The governor may modify, amend, supplement, or rescind this Order to reflect any change in federal or state legislation; provided, however, that any modification, amendment, supplementation or rescission shall not rescind

any allocation granted for a project or purpose pursuant to the terms of this Order if such allocation is required under federal law in order to maintain the tax-exempt status of the Bonds issued for such project or purpose.

K. Notwithstanding any provision in this Order to the contrary, if the governor determines it to be in the best interest of the state of Louisiana, because a project or purpose serves a crucial need or provides an extraordinary benefit to the state of Louisiana or to an area within the state of Louisiana, through the issuance of an executive order, the governor may authorize allocations in any amount or grant any or every portion of the ceiling, and for any purpose.

SECTION 5: MISCELLANEOUS PROVISIONS

A. The responsibility of the SBC staff as set forth in this Order shall be exercised by the SBC staff independent of any of its other duties and responsibilities owed to the Louisiana State Bond Commission.

B. The governor will certify in each executive order that grants a portion of the ceiling to a particular issue of Bonds that said bond issue meets the requirements of Section 146 of the Code.

C. 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.

SECTION 6: Executive Order No. KBB 2004-21, issued on July 12, 2004, is hereby terminated and rescinded.

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 7th day of April, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0505#073

Emergency Rules

DECLARATION OF EMERGENCY

Student Financial Assistance Commission
Office of Student Finanical Assistance

Scholarship/Grant Programs Core Curriculum, Graduate Students, and Rockefeller State Wildlife Scholarship
(LAC 28:IV.701, 703, and 1107)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the Scholarship/Grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)].

This Emergency Rule is necessary to implement changes to the Scholarship/Grant programs to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LASFAC has determined that this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective April 20, 2005, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§701. General Provisions

A. - E.11.c. …

12. A student who successfully completes an undergraduate degree without having exhausted his period of award eligibility shall receive an award for the remainder of his eligibility if he enrolls in graduate or professional school at an Eligible College or University no later than the fall semester immediately following the first anniversary of the student's completion of an undergraduate degree and has met the requirements for continued eligibility set forth in §705.A.6. The remaining eligibility may not be used to pursue a second undergraduate degree.

F. - G.2. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1645-1648 (December 1997), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25:256 (February 1999), LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26:1995 (September 2000), LR 26:2000 (September 2000), repromulgated LR 27:1848 (November 2001), amended LR 28:447 (March 2002), LR 28:2331 (November 2002), LR 29:880 (June 2003), LR 29:2372 (November 2003), LR 30:1161 (June 2004), LR 31:

§703. Establishing Eligibility

A. - A.4.g.ii. …

5.a. graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3; and

i.(a). for students graduating in Academic Year (High School) 2001-2002 and prior, at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting a core curriculum as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or
1	Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE); or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum); BESE has approved the following courses as computer related for purposes of satisfying the ½ unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Advanced Technical Drafting (1 credit) Computer/Technology Applications (1 credit) Computer Architecture (1 credit) Computer/Technology Literacy (1/2 credit) Computer Science I (1 credit) Computer Science II (1 credit) Computer Systems and Networking I (1 credit) Computer Systems and Networking II (1 credit) Desktop Publishing (1/2 credit) Digital Graphics & Animation (1/2 credit) Introduction to Business Computer Applications (1 credit) Multimedia Productions (1 credit) Technology Education Computer Applications (1 credit) Telecommunications (1/2 credit) Web Mastering (1/2 credit) Word Processing (1 credit) Independent Study in Technology Applications (1 credit)

(b). for students graduating in Academic Year (High School) 2002-2003 through 2003-2004, at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting a core curriculum as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or
1	Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE); or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum); BESE has approved the following courses as computer related for purposes of satisfying the ½ unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Advanced Technical Drafting (1/2 or 1 credit) Business Computer Applications (1/2 or 1 credit) Computer Applications or Computer/Technology Applications (1/2 or 1 credit) Computer Architecture (1/2 or 1 credit) Computer/Technology Literacy (1/2 or 1 credit) Computer Science I (1/2 or 1 credit) Computer Science II (1/2 or 1 credit) Computer Systems and Networking I (1/2 or 1 credit) Computer Systems and Networking II (1/2 or 1 credit) Desktop Publishing (1/2 or 1 credit) Digital Graphics & Animation (1/2 credit) Introduction to Business Computer Applications (1/2 or 1 credit) Multimedia Productions or Multimedia Presentations (1/2 or 1 credit) Technology Education Computer Applications (1/2 or 1 credit) Telecommunications (1/2 credit) Web Mastering or Web Design (1/2 credit) Word Processing (1/2 or 1 credit) Independent Study in Technology Applications (1/2 or 1 credit)

cc. for students graduating in Academic Year (High School) 2004-2005 through 2006-2007, at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting a core curriculum as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or
1	Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE); or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum); BESE has approved the following courses as computer related for purposes of satisfying the ½ unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Advanced Technical Drafting (1/2 or 1 credit) Business Computer Applications (1/2 or 1 credit) Computer Applications or Computer/Technology Applications (1/2 or 1 credit) Computer Architecture (1/2 or 1 credit) Computer Electronics I (1/2 or 1 credit) Computer Electronics II (1/2 or 1 credit) Computer/Technology Literacy (1/2 or 1 credit) Computer Science I (1/2 or 1 credit) Computer Science II (1/2 or 1 credit) Computer Systems and Networking I (1/2 or 1 credit) Computer Systems and Networking II (1/2 or 1 credit) Desktop Publishing (1/2 or 1 credit) Digital Graphics & Animation (1/2 credit) Introduction to Business Computer Applications (1/2 or 1 credit) Multimedia Productions or Multimedia Presentations (1/2 or 1 credit) Technology Education Computer Applications (1/2 or 1 credit) Telecommunications (1/2 credit) Web Mastering or Web Design (1/2 credit) Word Processing (1/2 or 1 credit) Independent Study in Technology Applications (1/2 or 1 credit)

dd. Beginning with the graduates of Academic Year (High School) 2007-2008, at the time of high school graduation, an applicant must have successfully completed 17.5 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
1	Algebra II

Units	Course
1	Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for one unit; provided however, that such Agriscience unit shall not be considered a science elective for the purpose of the math or science elective requirement below)
1	An elective from among other math or science subjects listed in this core curriculum
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or
1	Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE) or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum). BESE has approved the following courses as computer related for purposes of satisfying the ½ unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Advanced Technical Drafting (1/2 or 1 credit) Business Computer Applications (1/2 or 1 credit) Computer Applications or Computer/Technology Applications (1/2 or 1 credit) Computer Architecture (1/2 or 1 credit) Computer Electronics I (1/2 or 1 credit) Computer Electronics II (1/2 or 1 credit) Computer/Technology Literacy (1/2 or 1 credit) Computer Science I (1/2 or 1 credit) Computer Science II (1/2 or 1 credit) Computer Systems and Networking I (1/2 or 1 credit) Computer Systems and Networking II (1/2 or 1 credit) Desktop Publishing (1/2 or 1 credit) Digital Graphics & Animation (1/2 credit) Introduction to Business Computer Applications (1/2 or 1 credit) Multimedia Productions or Multimedia Presentations (1/2 or 1 credit) Technology Education Computer Applications (1/2 or 1 credit) Telecommunications (1/2 credit) Web Mastering or Web Design (1/2 credit) Wood Processing (1/2 or 1 credit) Independent Study in Technology Applications (1/2 or 1 credit)

A.5.g.ii. - H.3. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64 and 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999 and 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219 and 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330 and 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:

Chapter 11. Rockefeller State Wildlife Scholarship

§1107. Maintaining Eligibility

A. To continue receiving the Rockefeller State Wildlife Scholarship, recipients must meet all of the following criteria:

1. have received the scholarship for not more than seven academic years (five undergraduate and two graduate); and

2. at the close of each academic year (ending with the spring semester or quarter), have earned at least 24 hours total credit during the fall, winter and spring terms at an institution defining 12 semester or eight quarter hours as the minimum for full-time undergraduate status or earn at least 18 hours total graduate credit during the fall, winter and spring terms at an institution defining nine semester hours as the minimum for full-time graduate status unless granted an exception for cause by LASFAC; and

3. achieve a cumulative grade point average of at least 2.50 as an undergraduate student at the end of each academic year or achieve a cumulative grade point average of at least 3.00 as a graduate student at the end of each academic year; and

4. continue to enroll each subsequent semester or quarter (excluding summer sessions and intersessions) at the same institution unless granted an exception for cause and/or approval for transfer of the award by LASFAC; and

5. continue to pursue a course of study leading to an undergraduate or graduate degree in wildlife, forestry or marine science.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:1859 (November 2001), LR 31:

George Badge Eldredge
General Counsel

0505#005

DECLARATION OF EMERGENCY

Tuition Trust Authority
Office of Student Financial Assistance

START Savings Program
(LAC 28:VI.315)

The Louisiana Tuition Trust Authority (LATTA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091 et seq.).

This Emergency Rule is necessary to allow the Louisiana Office of Student Financial Assistance and educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LATTA has determined that this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective April 20, 2005, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28
EDUCATION
Part VI. Student Financial AssistanceCHigher Education SavingsCTuition Trust Authority
Chapter 3. Education Savings Account
§315. Miscellaneous Provisions

A. - B.10. …

11. For the year ending December 31, 2004, the Louisiana Education Tuition and Savings Fund earned an interest rate of 4.72 percent.

12. For the year ending December 31, 2004, the Earnings Enhancements Fund earned an interest rate of 5.12 percent.

C. - R. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:

George Badge Eldredge
General Counsel

0505#003

DECLARATION OF EMERGENCY

Department of Environmental Quality
Office of Environmental Assessment

New or Revised Emissions Estimation Methods
(LAC 33:III.501)(AQ240E2)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), which allows the Department of Environmental Quality to use emergency procedures to establish rules, and under the authority of R.S. 30:2011, the secretary of the department hereby declares that an emergency action is necessary to implement rules concerning the use of new or revised emissions estimation methods for annual compliance certifications required by LAC 33:III.507.H.

This is a renewal of Emergency Rule AQ240E1, which was effective on December 28, 2004, and published in the *Louisiana Register* on January 20, 2005. This Emergency Rule clarifies requirements set forth in LAC 33:III.919, concerning emissions inventory, and LAC 33:III.507.H, concerning annual compliance certifications. LAC 33:III.919.C requires that emissions reported in the emissions inventory shall be calculated using the best available information.

The department realizes that the Clean Air Act (42 U.S.C. §7430) requires EPA to periodically review AP-42 factors and that such emission factors may change upwards or downwards due to receipt of improved data.

The failure to adopt this Rule on an emergency basis (i.e., without the delays for public notice and comment) would result in imminent peril to the public welfare. The air regulations require that permittees use the latest version of any AP-42 factor used to calculate emissions reported on an annual emissions inventory. For some facilities, this will result in a change in the calculation of emissions from levels that were previously in compliance with permit limits to levels that exceed those permit limits. Those facilities that have been reporting emissions in compliance with their permits may now be reporting emissions that exceed permit limits, even though their actual emissions have not changed. As a result, these facilities face potential enforcement actions, including substantial civil penalties. Some such facilities may elect to reduce or cease operations, which would have severe economic consequences for the firms involved, as well as their employees, suppliers, and customers. Adding LAC 33:III.501.C.11 allows the department to review changes in emission factors on a case-by-case basis prior to any actions taken by the department.

This Emergency Rule is effective on April 27, 2005, 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 AQ240E2 you may contact the Regulation Development Section at (225) 219-3550.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 5. Permit Procedures
§ 501. Scope and Applicability

A. - C.10. ...

11. Emissions estimation methods set forth in the Compilation of Air Pollution Emission Factors (AP-42) and other department-approved estimation methods may be promulgated or revised. Emissions increases due solely to a change in AP-42 factors do not constitute violations of the air permit. Changes in emission factors other than AP-42 factors will be evaluated by the department on a case-by-case basis for appropriate action.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:

Mike D. McDaniel, Ph.D.
Secretary

0505#011

DECLARATION OF EMERGENCY

Department of Environmental Quality
Office of Environmental Assessment

Waste Tires Amendments
(LAC 33:VII.10505, 10509, 10519,
10521, 10535, and 10537)(SW039E2)

Editor's Note: This Emergency Rule is being repromulgated to correct a typographical error. The original Emergency Rule may be viewed in its entirety on pages 889-892 of the April 2005 edition of the *Louisiana Register*.

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 30:2011, the secretary of the Department of Environmental Quality declares that an emergency action is necessary in order to strengthen the regulations that will ensure proper processing, recycling, marketing, and disposal of waste tires generated in Louisiana. Waste tires that are not processed, recycled, and marketed in accordance with LAC 33:VII.Chapter 105 create environmental and health-related problems and pose a significant threat to the safety of the community. In particular, improper handling of waste tires results in breeding grounds for mosquitoes, fostering West Nile and other mosquito-borne diseases in the environment. The elimination of breeding areas for mosquitoes will reduce the exposure to these insects and the serious health problems associated therewith. This is a renewal of Emergency Rule SW039E1, which was effective on November 27, 2004, and published in the *Louisiana Register* on December 20, 2004. A Notice of Intent for proposed Rule SW039 to promulgate these regulation changes was published in the March 20, 2005, *Louisiana Register*.

The Waste Tire Management Fund, established to temporarily subsidize the processing, recycling, and marketing of waste tires, has not been generating sufficient funds to provide for the proper processing, recycling, and marketing of waste tires. The failure to provide sufficient funds for the waste tire program may result in the resumption of illegal tire disposal, precipitating an increase in breeding areas for disease carrying vectors and endangering the health of the public and the aesthetics of the environment. Act 846 of the 2004 regular legislative session authorized new fees to be collected. This Emergency Rule allows for the collection of those fees resulting from the sale of all tires, including recapped/retreaded tires, and adds a new category of motor vehicle dealers. The collection of the fees was effective on September 15, 2004.

This Emergency Rule is effective on March 27, 2005, 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 SW039E2, you may contact the Regulation Development Section at (225) 219-3550.

Title 33
ENVIRONMENTAL QUALITY
Part VII. Solid Waste
Subpart 2. Recycling

Chapter 105. Waste Tires

§10505. Definitions

A. The following words, terms, and phrases, when used in conjunction with the Solid Waste Rules and Regulations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

* * *

Motor Vehicle Dealer any person, business, or firm registered with the state of Louisiana that engages in the commercial sale of new motor vehicles.

* * *

Recapped or Retreaded Tire—any tire that has been reconditioned from a used tire and sold for use on a motor vehicle.

* * *

Sale of a Motor Vehicle any sale and/or lease of a motor vehicle that would require registration, under the name of the consumer, with the Louisiana Office of Motor Vehicles.

* * *

Tire Dealer any person, business, or firm that engages in the sale of tires, including *recapped or retreaded tires*, for use on motor vehicles.

* * *

Waste Tire a whole tire that is no longer suitable for its original purpose because of wear, damage, or defect. *Waste tire* does not include a tire weighing over 500 pounds and/or a solid tire.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000), LR 27:829 (June 2001), LR 27:2226 (December 2001), LR 28:1953 (September 2002), LR 29:2779 (December 2003), amended by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:

§10509. Prohibitions and Mandatory Provisions

A. - G. …

H. All persons who sell tires shall retain and make available for inspection, audit, copying, and examination, a record of all tire transactions in sufficient detail to be of value in determining the correct amount of fee due from such persons. The records retained shall include all sales invoices, purchase orders, inventory records, and shipping records pertaining to any and all sales and purchases of tires. This recordkeeping provision does not require anything more than what is already required by R.S. 47:309(A).

I. Each tire wholesaler shall maintain a record of all tire sales made to dealers in this state. This recordkeeping provision does not require anything more than what is already required by R.S. 47:309(A). These records shall contain and include the name and address of each tire purchaser and the number of tires sold to that purchaser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2774 (December 2000), amended by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:

§10519. Standards and Responsibilities of Generators of Waste Tires

A. …

B. Tire dealers must accept from the purchaser, at the time of purchase, one waste tire for every tire sold, unless the purchaser elects to retain the waste tire.

C. Each tire dealer doing business in the state of Louisiana shall be responsible for the collection of the $2 waste tire fee upon the sale of each passenger/light truck tire, $5 waste tire fee upon the sale of each medium truck tire, and $10 waste tire fee upon the sale of each off-road tire. For recapped or retreaded tires, a waste tire fee of $1.25 shall be collected upon the sale of each recapped or retreaded tire. *Tire dealer* includes any dealer selling tires in Louisiana.

D. - E.1. …

2. "All Louisiana tire dealers are required to collect a waste tire cleanup and recycling fee of $2 for each passenger/light truck tire, $5 for each medium truck tire, and $10 for each off-road tire, upon sale of each tire. These fees shall also be collected upon replacement of all recall and adjustment tires. Tire fee categories are defined in the Waste Tire Regulations. No fee shall be collected on tires weighing more than 500 pounds or solid tires. This fee must be collected whether or not the purchaser retains the waste tires. Tire dealers must accept from the purchaser, at the time of sale, one waste tire for every tire sold, unless the purchaser elects to retain the waste tire."

F. - J. …

K. No generator shall allow the removal of waste tires from his place of business by anyone other than an authorized transporter, unless the generator generates 50 or less waste tires per month from the sale of 50 tires. In this case, the generator may transport his waste tires to an authorized collection or permitted processing facility provided LAC 33:VII.10523.C is satisfied.

L. A generator who ceases the sale of tires at the registered location shall notify the Office of Management and Finance, Financial Services Division, within 10 days of the date of the close or relocation of the business. This notice shall include information regarding the location and accessibility of the tire sale and monthly report records.

M. Generators of waste tires shall segregate the waste tires from any usable tires offered for sale.

N. - O. …

P. All generators of waste tires (e.g., new tire dealers, used tire dealers, salvage yards, and recappers) shall maintain a complete record of purchase invoices, inventory records, and sales invoices for a period of no less than three years. These records shall be open for inspection and/or audit by the administrative authority at all reasonable hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:2227 (December 2001), LR 28:1953 (September 2002), LR 29:1818 (September 2003), LR 29:2780 (December 2003), amended by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:

§10521. Standards and Responsibilities of Motor Vehicle Dealers

A. All existing motor vehicle dealers shall notify the Office of Management and Finance, Financial Services Division, of their existence and obtain an identification number. Notification shall be on a form provided by the Office of Management and Finance, Financial Services Division. Any new motor vehicle dealer shall notify the Office of Management and Finance, Financial Services Division, within 30 days of commencement of business operations.

B. Motor vehicle dealers doing business in the state of Louisiana, who sell new vehicles, shall be responsible for the collection from the consumer of the $2 waste tire fee for each tire upon the sale of each vehicle that has passenger/light truck tires, the $5 waste tire fee for each tire upon the sale of each vehicle that has medium truck tires, and the $10 waste tire fee for each tire upon the sale of each off-road vehicle. No fee is collected on the designated spare tire.

C. Motor vehicle dealers shall remit all waste tire fees collected as required by LAC 33:VII.10535.B and C to the department on a monthly basis on or before the twentieth day following the month during which the fees were collected. The fees shall be remitted to the Office of Management and Finance, Financial Services Division. Each such dealer shall also submit a Monthly Waste Tire Fee Report (Form WT02, available from the Office of Management and Finance, Financial Services Division) to the Office of Management and Finance, Financial Services Division, on or before the twentieth day of each month for the previous month's activity, including months in which no fees were collected. Each motor vehicle dealer is required to make a report and remit the fee imposed by this Section and shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each such dealer shall maintain a complete record of the quantity of vehicles sold, together with vehicle purchase and sales invoices, and inventory records, for a period of no less than three years. These records shall be made available for inspection by the administrative authority at all reasonable hours.

D. Motor vehicle dealers must provide notification to the public sector via a sign, made available by the Office of Management and Finance, Financial Services Division, indicating that:

> "All Louisiana motor vehicle dealers selling new vehicles are required to collect a waste tire cleanup and recycling fee from the consumer of $2 for each tire upon the sale of each vehicle that has passenger/light truck tires, $5 for each tire upon the sale of each vehicle that has medium truck tires, and $10 for each tire upon the sale of each off-road vehicle. These fees shall also be collected upon replacement of all recall and adjustment tires. No fee shall be collected on the designated spare tire."

E. The waste tire fee established by R.S. 30:2418 shall be listed on a separate line of the retail sales invoice or buyers order. No tax of any kind shall be applied to this fee.

F. A motor vehicle dealer who ceases the sale of motor vehicles at the registered location shall notify the Office of Management and Finance, Financial Services Division,

within 10 days of the date of the close or relocation of the business. This notice shall include information regarding the location and accessibility of the motor vehicle sales and monthly report records.

G. Motor vehicle dealers, who generate waste tires, shall comply with the manifest requirements of LAC 33:VII.10533.

H. Motor vehicle dealers shall comply with LAC 33:VII.10519.H for all waste tires and waste tire material collected and/or stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:

§10535. Fees and Fund Disbursement

A. - A.8. …

B. Waste Tire Fee upon Promulgation of These Regulations. A waste tire fee is hereby imposed on each tire sold in Louisiana, to be collected from the purchaser by the tire dealer and motor vehicle dealer at the time of retail sale. The fee shall be $2 for each passenger/light truck tire, $5 for each medium truck tire, and $10 for each off-road tire. No fee shall be collected on tires weighing more than 500 pounds or solid tires.

C. - D.10. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2781 (December 2000), LR 27:832 (June 2001), LR 27:2228 (December 2001), amended by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:

§10537. Enforcement

A. …

B. Investigations and Audits: Purposes, Notice. Investigations shall be undertaken to determine whether a violation has occurred or is about to occur, the scope and nature of the violation, and the identity of the persons or parties involved. Upon written request, the results of an investigation shall be given to any complainant who provided the information prompting the investigation and, if advisable, to any person under investigation, if the identity of such person is known. In cases where persons selling tires have failed to report and remit the waste tire fee to the administrative authority, and the person's records are inadequate to determine the proper amount of fee due, or in cases(s) where a grossly incorrect report or a report that is false or fraudulent has been filed, the administrative authority shall have the right to estimate and assess the amount of the fee due, along with any interest accrued and penalties. The burden to demonstrate to the contrary shall rest upon the audited entity.

C. - E.2.c. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2782 (December 2000), LR 28:1954 (September 2002), amended by the Department of Environmental Quality, Office of Environmental Assessment LR 31:

Mike D. McDaniel, Ph.D.
Secretary

0505#010

DECLARATION OF EMERGENCY

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

Early and Periodic Screening, Diagnosis and Treatment Program Early Intervention Services for Infants and Toddlers with Disabilities
(LAC 50:XV.7107, 8103-8109)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby amends LAC 50:XV.7101 and repeals 8103-8109 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2004-2005 General Appropriation Act, which states, "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." 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 Administrative Procedure 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 adopted a Rule to establish early intervention services for infants and toddlers with disabilities under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program (*Louisiana Register*, Volume 30, Number 4) in conjunction with the transfer of Louisiana's early intervention system under Part C of the Individuals with Disabilities Education Act (IDEA) from the Department of Education, Division of Special Populations to the Department of Health and Hospitals, Office of Public Health. As a result of a budgetary shortfall, the bureau promulgated an Emergency Rule to reduce the reimbursement for early intervention services for infants and toddlers with disabilities by 25 percent (*Louisiana Register*, Volume 31, Number 2). The Bureau now proposes to repeal LAC 50:XV.8103-8109 and repromulgate the provisions governing reimbursement for early intervention services for infants and toddlers with disabilities in LAC 50:XV.7107 and continue the provisions of the February 1, 2005 Emergency Rule. This action is being taken in order to avoid a budget deficit.

Effective for dates of service on or after June 2, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement rates by 25 percent for early intervention services for infants and toddlers with disabilities under the

Early and Periodic Screening, Diagnosis and Treatment Program.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 71. Health Services

§7107. Reimbursement

A. Early Steps (Part C of IDEA). The reimbursement for health services rendered to infants and toddlers with disabilities who are age birth to 3 years shall be the lower of billed charges or 75 percent of the rate (a 25 percent reduction) in effect on January 31, 2005.

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 30:800 (April 2004), amended LR 31:

Chapter 81. Early Intervention Services for Infants and Toddlers with Disabilities

§8103. Recipient Qualifications

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 30:800 (April 2004), repealed LR 31:

§8105. Covered Services

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 30:800 (April 2004), repealed LR 31:

§8107. Provider Participation

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 30:800 (April 2004), repealed LR 31:

§8109. Reimbursement

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 30:800 (April 2004), repealed LR 31:

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 Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA70821-9030. 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

0505#040

DECLARATION OF EMERGENCY

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

Targeted Case Management Reimbursement
(LAC 50:XV.10701)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby amends LAC 50:XV.10701 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2004-2005 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including, but not limited to, pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." 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 Administrative Procedure 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 repromulgated the rules governing optional targeted case management services under the Medicaid Program for inclusion in the Louisiana Administrative Code (*Louisiana Register*, Volume 30, Number 5). The provisions governing targeted case management services for infants and toddlers who are age birth through 36 months were included in the May 20, 2004 Rule. As a result of a budgetary shortfall, the bureau reduced reimbursement for targeted case management services for infants and toddlers by 25 percent (*Louisiana Register*, Volume 31, Number 2). This Emergency Rule is being promulgated to continue provisions contained in the February 1, 2005 Rule. This action is being taken in order to avoid a budget deficit.

Effective for dates of service on or after June 2, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for targeted case management services for infants and toddlers.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 7. Targeted Case Management

Chapter 107. Reimbursement

§10701. Reimbursement

A. - B.2. …

C. Effective for dates of service on or after February 1, 2005, the reimbursement rate for targeted case management services for infants and toddlers shall be 75 percent of the rate (a 25 percent reduction) in effect on January 31, 2005.

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 30:1040 (May 2004), amended LR 31:

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 Ben A. Bearden, 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

0505#041

DECLARATION OF EMERGENCY

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

Third Party Liability Newborn Notification

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule under 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.

Federal laws and regulations require states to assure that Medicaid recipients utilize all other available resources to pay for all or part of their medical care needs before seeking payment through the Medicaid Program. This may involve health insurance, casualty coverage resulting from an accidental injury, or payments received directly from an individual who has either voluntarily accepted or been assigned legal responsibility for the health care of one or more recipients. The Medicaid Program will only make payments after the third party has met its legal obligation to pay for the medical services. Medicaid is the payer of last resort. The purpose of establishing and maintaining an effective Third Party Liability Program is to reduce Medicaid expenditures. Act 269 of the 2004 Regular Session of the Louisiana Legislature mandated the establishment of reasonable requirements and standards for the enrollment of newborns as dependents for health insurance coverage by health insurance issuers. In addition, the Act mandated that health insurance issuers give 90-day written notice to the secretary of the Department of Health and Hospitals prior to the cancellation of health insurance coverage for nonpayment of any additional premium for a newborn child who may also be eligible for Medicaid medical benefits. In compliance with Act 269, the bureau proposes to adopt the following provisions governing newborn notification requirements for hospitals.

This action is being taken in order to avoid a budget deficit. It is estimated that implementation of this Emergency Rule will decrease expenditures in the Medical Assistance Program by approximately $462,087 for the state fiscal year 2004-2005.

Emergency Rule

Effective May 20, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions under the Third Party Liability Program governing newborn notification requirements for hospitals.

Definitions

Effective Date of Birth the date of live birth of a newborn child.

Health Insurance Issuer an insurance company, including a health maintenance organization as defined and licensed to engage in the business of insurance under Part XII of Chapter 2 of Title 22, unless preempted as a qualified employee benefit plan under the Employee Retirement Income Security Act of 1974.

Qualifying Newborn Child a newborn child who meets the eligibility provisions for the Medicaid Program.

Third Party Liability (TPL) Notification of Newborn Child(ren) Form the written form developed by the Department of Health and Hospitals that must be completed by the hospital to report the birth and health insurance status of a newborn child.

Notification Requirements

A. A hospital shall complete the Third Party Liability (TPL) Notification of Newborn Child(ren)form to report the birth and health insurance status of a qualifying newborn child either delivered in their facility, delivered under their care, or transferred to their facility after birth. The notification shall only be completed when the hospital reasonably believes that the following entities would consider the child to be a qualified newborn and insurance coverage is available to said child(ren):

1. the health insurance issuer that has issued a policy of health insurance under which the newborn child may be entitled to coverage; and
2. the Department of Health and Hospitals.

B. The TPL Notification of Newborn Child(ren) form shall be completed by the hospital and submitted to any and all applicable health insurance issuers within seven days of the birth of a newborn child. Delivery of the notification form may be established via the U.S. Mail, fax, or email.

C. The TPL Notification of Newborn Child(ren) form shall be sent to the Department of Health and Hospitals, Bureau of Health Services Financing, Third Party Liability/Medicaid Recovery within seven days of the birth of the child.

D. This notification shall not be altered in any respect by the hospital and shall be in addition to any other notification, process, or procedure followed by the hospital. The notification shall not be done in lieu of any other required notice, process, or procedure established in any other rule, manual, or policy.

Interested persons may submit written comments to Ben A. Bearden, 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

0505#039

DECLARATION OF EMERGENCY

Department of Social Services
Office of Family Support

Food Stamp Program Standard and Basic Utility Allowance
(LAC 67:III.1965 and 1966)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III, Subpart 3, effective June 1, 2005. This Rule shall remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule effective February 1, 2005, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in June 2005).

Pursuant to Public Law 107-171, The Food Stamp Reauthorization Act of 2002, the agency is amending §§1965 and 1966 to comply with mandates issued by the United States Department of Agriculture, Food and Nutrition Service. Section 4104 of P.L. 107-171 authorizes changes that simplify the application of the standard utility allowance (SUA) and the basic utility allowance (BUA) as it relates to food stamp households residing in public housing, using a shared utility meter, and paying excess utility costs. These households shall now be allowed to claim the full SUA as a shelter deduction if heating or cooling costs are incurred, or the full BUA as a shelter deduction if heating or cooling costs are not incurred.

Emergency action in this matter is necessary as failure to promulgate the Rule could result in the imposition of sanctions or penalties by the USDA, Food and Nutrition Service, the governing authority of the Food Stamp Program in Louisiana.

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 3. Food Stamps
Chapter 19. Certification of Eligible Households
Subchapter I. Income and Deductions
§1965. Standard Utility Allowance (SUA)

A. ...

B. Effective February 1, 2005, households living in public housing with shared meters that are only charged for excess utilities shall use the SUA if heating or cooling costs are incurred.

C. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:51551 et seq., 7 CFR 272 and 273.9, P.L. 104-193, P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:64 (February 1983), amended by the Department of Social Services, Office of Family Support, LR 21:187 (February 1995), LR 23:82 (January 1997), LR 24:108 (January 1998), LR 29:606 (April 2003), LR 31:

§1966. Basic Utility Allowance (BUA)

A. Households which do not incur heating or cooling costs separate and apart from their rent or mortgage use a mandatory single Basic Utility Allowance (BUA). To be eligible, a household must be billed on a regular basis for utility costs. The full basic utility allowance shall be allowed to all parties who contribute to the utility costs when the household shares a residence and utility costs with other individuals.

B. Effective February 1, 2005, households living in public housing with shared meters that are only charged for excess utilities shall use the BUA if heating or cooling costs are not incurred.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:108 (January 1998), LR 29:606 (April 2003), LR 31:

Ann S. Williamson
Secretary

0505#059

DECLARATION OF EMERGENCY

Department of Social Services
Office of Family Support

SES Child Support Collections Distributions
(LAC 67:III.2514)

The Department of Social Services, Office of Family Support, Support Enforcement Services (SES) has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III, §2514 in the Child Support Enforcement Program effective April 25, 2005. This Rule shall remain in effect for a period of 120 days.

Pursuant to 42USC,664(a)(3)(B), amendments are necessary to the SES Program in order to identify when delayed payment of Federal Offsets for child support arrears is appropriate.

Additionally 42USC,654b(c) requires amendments to specify the distribution time frame for child support payments received in a foreign currency.

Emergency action in this matter is necessary as failure to promulgate the Rule in a timely manner could result in the imposition of sanctions or penalties by the Administration for Children and Families, Office of Child Support Enforcement, the governing authority of the Support Enforcement Program in Louisiana.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 4. Support Enforcement Services
Chapter 25. Support Enforcement
Subchapter D. Collection and Distribution of Support Payments
§2514. Distribution of Child Support Collections

A. Effective October 2, 1998, the agency will distribute child support collections in the following manner:

1. - 5. ...

6. Effective April 25, 2005, the state may delay distribution of Federal Offsets for child support arrears until the state has been notified by the U.S. Secretary of the Treasury that the other person filing the joint return has received his or her proper share of the offset. The delay may not exceed six months.

B. ...

C. Effective April 25, 2005, when child support is collected in the form of a foreign currency, the state shall send the child support payment to the custodial parent within two business days of receipt of the converted U. S. dollar payment.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 105-33, OCSE-AT-98-24, 42USC,664(a)(3)(B), 42USC,654b(c).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:304 (March 1994, amended LR 24:703 (April 1998), LR 25:320 (February 1999), LR 31:

Ann Silverberg Williamson
Secretary

0505#009

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

2005 Spring Shrimp Season

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters, the Wildlife and Fisheries Commission does hereby set the 2005 Spring Shrimp Season in Louisiana state waters to open as follows:

Shrimp Management Zone 1, that portion of Louisiana's inside waters from the Mississippi State line to the eastern shore of South Pass of the Mississippi River, to open at 6 a.m. May 23, 2005, and

Shrimp Management Zone 2, that portion of Louisiana's inside waters from the eastern shore of South Pass of the Mississippi River westward to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, as well as that portion of the state's Outside Waters south of the Inside/Outside Shrimp Line as described in R.S. 56:495 from the Atchafalaya River Channel at Eugene Island as delineated by the River Channel Buoy Line to Freshwater Bayou Canal at longitude 92E 18' 33" W, all to open at 6 a.m. May 16, 2005, and

Shrimp Management Zone 3, that portion of Louisiana's inside waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island westward to the Texas State Line, to open at 6 a.m. June 2, 2005.

The commission also hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to close any portion of the state's inside waters to protect small white shrimp if biological and technical data indicates the need to do so, or enforcement problems develop.

Wayne J. Sagrera
Chairman

0505#063

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Deer and Elk Importation (LAC 76:V.117)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of LSA Const. Art. IX Sec. 7; LSA 56:6(10), (13) and (15) and 20 and 171 et seq., the Wildlife and Fisheries Commission (LWFC) hereby adopts the following Emergency Rule.

This Rule is effective May 30, 2005 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule.

The reasons for the promulgation of this Declaration of Emergency are as follows.

Chronic Wasting Disease (CWD) is a neurodegenerative disease that has been found in captive and free-ranging deer and elk herds in 13 states. Bovine tuberculosis (TB) occurs in captive and free ranging deer in Michigan. In 1998, the LWFC prohibited importation of white-tailed deer from Wyoming and Colorado, states with endemic CWD in certain populations of free-ranging deer. Importation from Michigan was also prohibited due to the occurrence of TB. In response to the increasing threat of CWD introduction, the LWFC in 2002 prohibited deer importation from all states and further prohibited elk importation in violation of any Louisiana Livestock Sanitary Board Quarantine. That Rule will expire on May 30, 2005. Since the 2002 Deer and Elk Importation Rule was promulgated, CWD has been found in five more states and 59 additional captive deer or elk herds. Since CWD was first identified, cases have been found in at least 80 captive deer or elk herds in Colorado, South Dakota, Oklahoma, Nebraska, Montana, Kansas, Minnesota, Wyoming, Wisconsin, New York, and the Canadian provinces of Alberta and Saskatchewan. In addition to the CWD cases in captive deer and elk, the disease has been found in free-ranging deer in Colorado, Wyoming, Utah, New Mexico, Illinois, Nebraska, South Dakota, and Wisconsin and Saskatchewan. Several of the CWD outbreaks in wild deer appear to be associated with captive elk herds.

CWD is related to other transmissible spongiform encephalopathies such as Bovine Spongiform Encephalopathy (Mad Cow Disease) of cattle, Creutzfeld-Jakob Disease of humans, and scrapie of sheep. Mutant proteins, called prions, are believed to be the infectious agent responsible for CWD. Current information suggests that the disease is limited to deer and elk, and is not naturally transmitted to livestock or humans. The means by which CWD is transmitted is not known, but it is probably transmitted from animal to animal. Maternal transmission from infected does to fawns is also thought to occur. There is no cure or treatment for CWD, and it is always fatal.

CWD is a particularly difficult disease to detect and control. The incubation period (time from which the animal is infected until it exhibits symptoms) is at least 18 months

and may be as long as 3-5 years. Until symptoms appear, infected animals appear normal. Symptoms of CWD include weight loss, excessive salivation, depression, dehydration, general weakness, and behavioral changes. There is no practical live animal test for CWD. Examination of brain tissue from dead animals is the primary means of positive diagnosis. The agent that causes CWD is extremely resistant to traditional disinfection techniques. It is not known how long the infectious agent can persist in the soil or other media, but some evidence indicates that the infectious agent can persist for an extended period of time.

Interstate and intrastate movement of infected captive deer and elk can quickly spread CWD beyond those areas where it already occurs. Strong circumstantial evidence suggests that CWD outbreaks in free ranging deer in Colorado, Nebraska, and South Dakota are related to captive elk enclosures.

Trade in captive deer and elk lend itself to the spread of CWD. Deer and elk are frequently transferred from one owner to another. These movements are often from state to state. For example, at least 109 elk movements which occurred during 1982-97, were indirectly or directly traced back to a single CWD positive captive elk herd in Montana. Elk from this herd were sent to at least 12 states and 2 Canadian provinces. Elk from a CWD infected Colorado herd were sent to 19 states and introduced into 45 herds. A CWD outbreak in Saskatchewan, Canada that affected 39 elk herds was traced back to a single elk from South Dakota. Exotic animal auctions are another source of concern.

At these auctions, a large number of animals come into contact with each other and then are dispersed across the United States. Accurate and verifiable records of where animals have been, and what animals they have been in contact with, are seldom available. In some states, including Louisiana, captive deer and elk may be introduced into large enclosures containing wild deer. Once introduced into large, often heavily vegetated enclosures, the animals usually cannot be monitored or re-captured. Enclosures are not escape-proof and escapes or fence to fence contact with free ranging wild deer can be expected.

The Louisiana Department of Agriculture and Forestry has licensed approximately 187 alternative livestock farms. In addition, 31 supplemented hunting preserves that average 690 acres each are licensed by LDAF. These supplemented hunting preserve enclosures may contain both released deer and native wild deer. The Louisiana Department of Wildlife and Fisheries licenses about 40 non-commercial game breeders that possess deer. The deer and elk farming industry in Louisiana is relatively small, and as a whole, not highly dependent on imported deer. In 2000, the LDAF issued only 10 importation permits involving 57 deer.

In contrast, recreation associated with wild deer and wild deer hunting has significant economic impact in Louisiana. In 2003, there were approximately 169,000 licensed deer hunters in Louisiana. There were also an undetermined number that were not required to have a license (under age 16 or over age 60). The *2001 National Survey of Fishing, Hunting and Wildlife Associated Recreation* reports that deer hunting in Louisiana has an economic impact of approximately $600,000,000 per year and provides over 3,350 jobs. Many landowners receive income from land leased for deer hunting. Recreation has been the driving force maintaining rural and timberland real estate values during the last several years.

The Louisiana Department of Wildlife and Fisheries instituted a CWD surveillance program in 2002. To date, 3,274 deer have been tested for CWD. CWD has not been detected in Louisiana.

The cost of a CWD outbreak in Louisiana could be substantial. State government could incur considerable costs in order to effectively contain and monitor a CWD outbreak. By way of example, the Wisconsin Department of Natural Resources spent approximately $11,500,000 for monitoring and containment during the first year of the outbreak in that state.

In addition to the cost to government, the private sector would be affected by a CWD outbreak in Louisiana. Interest in deer hunting would likely decline if significantly lower deer populations result. Additionally, hunter concerns regarding contact with, or consumption of, infected animals could also reduce deer hunting activity. Lower hunting lease values and fewer hunting related retail purchases would therefore be likely. A significant reduction in deer hunting activity could also have deleterious effects on agriculture, horticulture, and forestry resulting from increased deer depredation of crops, ornamentals, and trees if the reduction in hunting mortality is not offset by CWD mortality.

The primary means of containing a CWD outbreak in wild deer involves depopulating an area surrounding the infection site(s). By way of example, Wisconsin Department of Natural Resources personnel and landowners are working to reduce the deer population by about 90 percent in a 1,693 sq. mile core area where CWD has been found. In addition, they are attempting to reduce the deer population by about 70 percent in a 8,236 square mile buffer zone around the core area. In Colorado, the Division of Wildlife killed as many deer and elk as possible in a 5-mile radius of the CWD outbreak in western Colorado. These types of depopulation efforts are offensive to wildlife agencies, hunters, and other citizens. However, this is the only available means to control CWD outbreaks in wild free-ranging deer.

In recognition of the CWD threat, prohibitions on the importation of deer and elk have been instituted in approximately 25 states. The remaining states allow deer or elk importation only under limited circumstances.

The lack of a practical live animal test to detect CWD, an incubation period measured in years, and insufficient animal records make it extremely difficult to prevent the introduction of CWD infected deer and elk into Louisiana without an importation prohibition. The recent establishment of a large exotic animal auction facility in Louisiana highlights the potential for significant movement of deer and elk into Louisiana from other states. Introduction of CWD into Louisiana could have wide-ranging and significant negative impacts on the state's wild deer resources and economy. For these reasons and those outlined above, the Louisiana Wildlife and Fisheries Commission believes that an immediate prohibition on the importation of deer and elk into Louisiana is warranted. This prohibition will remain in effect until no longer necessary.

Title 76
WILDLIFE AND FISHERIES
Part V. Wild Quadrupeds and Wild Birds
Chapter 1. Wild Quadrupeds
§117. Deer and Elk Importation

A. Definitions

Elk or Red Deer any animal of the species Cervus elaphus.

Mule Deer or Black-Tailed Deer any animal of the species Odocoileus hemionus.

White-Tailed Deer any animal of the species Odocoileus virginianus.

B. No person shall import, transport or cause to be imported or transported live white-tailed deer, mule deer, or black-tailed deer (hereinafter deer), into or through the State of Louisiana. No person shall import, transport or cause to be imported or transported, live elk or red deer (hereinafter "elk") into or through Louisiana in violation of any Imposition of Quarantine by the Louisiana Livestock Sanitary Board. Any person transporting deer or elk between licensed facilities within the state must notify the Department of Wildlife and Fisheries and provide information as required by the Department prior to departure from the source facility and again upon arrival at the destination facility. A transport identification number will be issued upon providing the required information prior to departure. Transport of deer or elk between licensed facilities without a valid transport identification number is prohibited. Notification must be made to the Enforcement Division at 1-800-442-2511. All deer or elk imported or transported into or through this state in violation of the provisions of this ban shall be seized and disposed of in accordance with Wildlife and Fisheries Commission and Department of Wildlife and Fisheries rules and regulations.

C. No person shall receive or possess deer or elk imported or transported in violation of this Rule. Any person accepting delivery or taking possession of deer or elk from another person has a duty to review and maintain bills of sale, bills of lading, invoices, and all other documents which indicate the source of the deer or elk.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S. 56:6(10), (13) and (15), R.S. 56:20, R.S. 56:112, R.S. 56:116.1 and R.S. 56:171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:1140 (June 1998), repromulgated LR 24:1325 (July 1998), amended LR 28:2206 (October 2002), LR 31:

Wayne J. Sagrera
Chairman

0505#062

Rules

RULE

Department of Agriculture and Forestry
Horticulture Commission

Landscape Irrigation Contractors Licensing
(LAC 7:XXIX.107, 109, 113-117, and 123)

The Department of Agriculture and Forestry, Horticulture Commission, has amended regulations governing requirements for licensing of Landscape Irrigation Contractors in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

This Rule adds requirements for licensing of Landscape Irrigation Contractors as required by legislation passed in Act 810 of the 2004 regular session. It proposes requirements for licensed landscape irrigation contractors regarding insurance, written contracts, and continuing education, to add clarifications regarding the necessity of a water supply protection specialist endorsement from the State Plumbing Board and obtaining necessary permits from governing authorities, such as a parish or municipality.

This Rule are enabled by R.S. 3:3801 and R.S. 3:3814.

Title 7
AGRICULTURE AND ANIMALS
Part XXIX. Horticulture Commission

Chapter 1. Horticulture

§107. Application for Examination and Licensure or Permitting

A. - C.2. …

D. Arborist, Horticulturist, Landscape Contractor, Landscape Irrigation Contractor, Utility Arborist, Wholesale Florist

1. Applicants who desire to take the examination for arborist, horticulturist, landscape contractor, landscape irrigation contractor, utility arborist, or wholesale florist may apply at any time, in person or by writing, to the commission's state office in Baton Rouge or to any district office of the Department of Agriculture and Forestry. Applicants who apply in person, will be allowed, whenever feasible, to complete the written application form at the initial visit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, R.S. 3:3807, and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 18:249 (March 1992), LR 20:639 (June 1994), LR 23:854 (July 1997), LR 29:1460 (August 2003), LR 31:1053 (May 2005).

§109. Fees for License or Permit and Renewal Thereof

A. - B.3. …

C. Arborist, Horticulturist, Landscape Contractor, Landscape Irrigation Contractor, Utility Arborist, Wholesale Florist

1. The fee for examination or re-examination for licensure as an arborist, horticulturist, landscape contractor, landscape irrigation contractor, utility arborist, or wholesale florist shall be $50.

D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3806, R.S. 3:3805, and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 18:249 (March 1992), LR 20:640 (June 1994), LR 29:2297 (November 2003), LR 31:1053 (May 2005).

§113. Examination Schedule

A. - B.3. …

C. Arborist, Horticulturist, Landscape Contractor, Landscape Irrigation Contractor, Utility Arborist, Wholesale Florist. Examinations for licensure as an arborist, horticulturist, landscape contractor, landscape irrigation contractor, utility arborist, or wholesale florist will be administered in the commission's state office in Baton Rouge and in district offices of the Department of Agriculture and Forestry upon request. Interested applicants may apply, in person or by writing, at the state office or the most convenient district office. A date for the examination will be established for each applicant.

D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3807 and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 18:250 (March 1992), LR 20:640 (June 1994), LR 31:1053 (May 2005).

§115. General Requirements for All Licensees or Permittee

A. - D.4. …

E. Licensees must display at least one of their license numbers on both sides of all vehicles that have advertisement or signs and are used for business purposes with lettering at least 2 inches high and legible at the distance of 25 feet. The number to be displayed shall be the last four digits of the license number preceded by two letters indicating the type of license as follows.

AR Arborist
HS Horticulturist
LA Landscape Architect
LC Landscape Contractor
IC Landscape Irrigation Contractor
RF Retail Florist
UA Utility Arborist
WF Wholesale Florist

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 20:640 (June 1994), LR 21:548 (June 1995), LR 31:1053 (May 2005).

§117. Required Standards of Practice

A. - I.5. …

J. General Requirements for Landscape Irrigation Contractor

1. Before the commission issues a landscape irrigation contractor license the person to be licensed shall first furnish to the commission a certificate of insurance, written by an insurance company authorized to do business in Louisiana, covering the public liability of the applicant, as a licensee, for personal injuries and property damages. The insurance policy shall provide for not less than $25,000 per personal injuries and not less than $50,000 for property damages, both limits applicable to each separate accident. The certificate of insurance must provide for 30 days' written notice to the commission prior to cancellation.

2. Licensees are required to attend and complete a commission approved continuing training seminar at least once every three years. Each licensee, prior to renewal of his or her license, shall provide the commission with certifiable evidence that the licensee has timely and successfully completed such a seminar.

3. Licensed landscape irrigation contractors shall enter into a written contract with the property owner, specifying the landscape irrigation services to be performed and the sum to be paid for the services. The contract shall include the following statement: "Any complaints regarding landscape irrigation installation should be directed to the Louisiana Horticulture Commission at 225/952-8100." Both parties shall receive a copy of the contract.

4. Licensees must display their license at all times in a location accessible to the general public or any representative of the commission.

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).

§123. Clarifications

A. 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.

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

1. 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.

2. 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).

3. 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.

4. 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.

5. 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 8:187 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 31:1054 (May 2005).

Bob Odom
Commissioner

0505#032

RULE

Department of Agriculture and Forestry
Office of the Commissioner

Overtime and Holiday Inspection Service
(LAC 7:XXXIII.133)

The Commissioner of Agriculture and Forestry amends regulations governing fees assessed for the Meat and Poultry Inspection Program, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

For the last two years the Meat and Poultry Inspection Program budget has ended in a deficit. The Department of Agriculture and Forestry has used other funds to make up for each years deficit. The department no longer has funds available from other areas to make up this continuing deficit.

The department, however, cannot discontinue the Meat and Poultry Inspection Program because the Louisiana Meat and Poultry Inspection Law imposes and enforces requirements with respect to intrastate meat and poultry operations and commerce that are at least equal to those imposed and enforced under the Federal Meat Inspection Act. Discontinuing the Meat and Poultry Inspection Program will endanger the health and safety of Louisiana citizens

because intrastate meat and poultry operations and commerce would not be subject to rigorous inspections.

The department amends the Rules increasing fees to insure that the program will have adequate funding for the remaining fiscal year and beyond.

This Rule is enabled by R.S. 3:4232.

Title 7
AGRICULTURE AND ANIMALS
Part XXXIII. Meat and Poultry Inspections
Chapter 1. Meat and Poultry Inspection Program
§133. Overtime and Holiday Inspection Service

A. The Department of Agriculture and Forestry shall perform inspection services for official establishments, without charge, up to a 40 hours workweek Monday through Friday.

B. The department shall charge to and be reimbursed by official establishments an hourly overtime rate per department employee providing overtime inspection services to the official establishment. The overtime periods and rate per period are as follows:

1. $25 per hour for inspection services provided for more than 40 hours in any workweek Monday through Friday;

2. $30 per hour for inspection services provided on any Saturday or Sunday that is not otherwise a legal holiday established by R.S. 1:55;

3. $35 per hour for inspection services provided on days of public rest and legal holidays, other than Saturdays and Sundays, observed by the departments of the state in accordance with R.S. 1:55;

4. overtime inspection services shall be billed at a minimum of two hours at the appropriate rate. Time spent providing inspection services in excess of two hours shall be billed in increments of quarter hours, with the time being rounded up to the next quarter hour.

C. Bills are payable upon receipt and become delinquent 30 days from the date of the bill. Overtime inspections will not be performed for official establishments having a delinquent account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:247 (March 1985), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 31:1055 (May 2005).

Bob Odom
Commissioner

0505#033

RULE

Department of Culture, Recreation, and Tourism
Office of State Museums

Building Rental Fees (LAC 25:III.103)

The Department of Culture, Recreation and Tourism, Office of State Museums, amends the following Rule relative to building rental fees for state museum buildings, per authority of R.S. 25:342. The purpose of amendment/change is to adjust and align building rental use fees for state museum buildings to that of similar type and size buildings housing the same types of activities in the area. Baton Rouge, Louisiana Branch Museum and the E.D. White Historic Site in Thibodaux are included due to addition to the museum by legislative action.

Title 25
CULTURAL RESOURCES
PART III. Office of State Museums
Chapter 1. Public Access
§103. Building Rental Policy

A. The Louisiana State Museum is responsible for the preservation and maintenance of the historic buildings placed in its care and the irreplaceable collections items contained within these buildings. In order to meet this responsibility, the board of directors of the Louisiana State Museum has adopted the following policy for use of the museum's statewide facilities for functions or events not sponsored by the Louisiana State Museum.

1. Requests for Usage. Requests for the use of state museum buildings will be considered from:

a. nonprofit organizations with purposes similar to the educational and historical museum purposes of the Louisiana State Museum;

b. official governmental agencies for governmental functions or events;

c. groups or companies whose proposed usage does not involve merchandising or political promotion or fundraising and whose usage is, in the opinion of the Museum Board of Directors, not in conflict with the purpose of the Louisiana State Museum. Certain types of parties, such as wedding receptions, retirement parties and private individual parties are usually of a nature that could cause damage to the museum buildings and/or the irreplaceable collections within the buildings, therefore these types of functions/events will normally not be approved.

2. Procedures

a. Requests will be considered from eligible organizations/agencies/groups/companies:

i. for receptions, dinners, and similar functions occurring during non-public hours (after 5 p.m.);

ii. for business meetings, lectures, and/or slide presentations occurring during non-public hours (after 5 p.m.);

iii. for business meetings, lectures, and slide presentations occurring during public hours.

b. Numbers for consideration of each type function as stated in a. above will not exceed the maximum building capacity as stated below.

i. Baton Rouge Museum

Reception after hours:	775
Meetings after hours:	200
Meeting during public hours:	200

ii. Cabildo/Presbytere/Old U.S. Mint

Reception after hours:	500
Meetings after hours:	200
Meeting during public hours:	100

iii. Madame John's Legacy/The Arsenal

Reception after hours:	200
Meetings after hours:	200
Meeting during public hours:	100

iv. Patterson Museum

Reception after hours:	200
Meetings after hours:	200
Meeting during public hours:	100

v. Natchitoches Museum

Reception after hours:	200
Meetings after hours:	200
Meeting during public hours:	100

vi. E.D. White Historic Site

(a). Due to the size of the house, access during public hours is limited to no more than 20 persons at a time with purchased admissions.

(b). Access to the house after hours is limited to no more than 20 persons at a time viewing the house as part of rental of the grounds. Rental of the grounds will not be considered for more than 100 persons.

c. The Director of the State Museum is authorized to approve usage of museum buildings within the provisions of this policy, in addition to all museum-sponsored programs/functions/activities.

d. Requests for usage of the buildings that do not clearly come within this policy will be submitted to the State Museum Board of Directors, Executive Committee for a recommendation for final action by the board of directors.

e. The Museum Board of Directors will deny an application if, in the board's opinion, the proposed usage would endanger the museum's building and/or collections, or interfere with its exhibitions and/or other programs/activities.

f. The Museum Board of Directors may waive the donation portion when the board determines that to do so would be in the best interest of the museum. However, the base service charge fees will not be waived for non-museum functions.

g. The base service charge fees are established based on the museum's cost of all security, custodial, utilities, and administrative support required to service previous functions of the same size.

i. The state museum may, at its discretion, make additional charges based on the nature of the requested function and/or additional requirements as agreed upon. Such additional charges will be included in the written agreement.

h. All building usage requests must be submitted in writing (at least 30 days prior to the date of the functions is preferred) to allow for proper planning, coordination, and completion of all required paperwork, including but not limited to the required written agreement.

i. All rentals will be based on a written agreement which will specify all costs and fees, arrangement requirements, and the specific space to be used in the specified building. Certain spaces in each building may be designated as being not available for rental use. The agreement must be completed and signed by both the designated representative of the museum and the renting organization/group, at least 10 days prior to the date of the function.

j. The host organization must make arrangements with the caterer of their choice, however, the museum reserves the right to reject caterers that do not comply with the museum's instructions concerning proper care of museum facilities. The museum does not provide or recommend catering services.

k. The museum will not provide parking facilities to the host organization. The host organization is responsible for its own parking arrangements.

l. The museum will not remove collections/ exhibition items to accommodate the host organization.

m. Smoking is prohibited in all museum buildings.

n. The host organization/agency will designate an authorized representative to be present at the function and to have decision-making authority. This representative will be responsible for all coordination with the state museum.

o. If, after the completion of the function, the actual number of persons in attendance exceeded the planned number, or the time and space used was greater than planned, the host organization will be billed for the additional fees in accordance with the provisions of this policy.

p. A deposit of not less than 50 percent of the total indicated in the written agreement will be paid by the host organization to the museum at least one week prior to the date of the function. The balance and any additional charges required will be payable upon billing by the museum, following the function/event.

q. Host organizations will be charged the total costs involved in any repairs necessary to the museum building, collections, or exhibitions that are the result of the rental. These charges will be in addition to all other charges and fees and will be payable immediately upon notification.

r. A function request which would require the closing of any portion of the museum prior to its normal closing time will be charged an additional gate fee of $250 per hour for the period closed during public hours.

i. This requirement request must be agreed to in advance by the museum director and be included in the written agreement, otherwise it will be considered as a disapproval of the request.

s. The museum does not provide special equipment or tables for a sit-down type dinner or other after hours events. The organization renting the building is responsible for arrangements for such equipment. However, the museum must approve all equipment prior to the function/event.

3. Rates. Established rates apply to the buildings as indicated. Only buildings that are open to the public and/or available for use at the time of the request will be considered.

a. Donation. All applicants eligible under Subparagraph 1.c above will donate a gift to the Louisiana State Museum fund in the foundation designated for state museum use as endowment, education, acquisition, publications, conservation and building function support purposes. The museum must get prior approval of the legislative joint committee on the budget before making expenditures of funds generated by these donations.

i. Donations will be in accordance with the following schedule.

Location	Building	Rate (3 hrs.)	Each Additional Hour
Baton Rouge	Museum	$3,000	$1,000
New Orleans	Cabildo	$3,000	$1,000
New Orleans	Presbytere	$3,000	$1,000
New Orleans	Old U.S. Mint	$3,000	$1,000
New Orleans	Arsenal	$1,500	$ 500
New Orleans	Mme. John's Legacy	$1,500	$ 500
Patterson	Museum	$1,500	$ 500
Natchitoches	Museum	$1,500	$ 500
Thibodaux	Historical Site with Grounds	$1,000	$ 350

NOTE: Time will be rounded to the next quarter hour for determination of donation requirements above the initial three hour gift rate.

b. Base Service Charge Fees All Buildings

i. Business meetings, lectures, slide presentations:

(a) 9 a.m.-5 p.m., maximum 100 persons:

(i). 1-4 hours $400;

(ii). 4-8 hours, $600;

(b) after 5 p.m., maximum 200 persons:

Guests	First Hour	Each Additional Hour
1-100	$400	$100
101-200	$650	$150

(c) minimum fee in (a) and (b) above is $400;

(d) an additional cleaning and repair fee of $200 during pubic hours and $300 during non-public hours will be charged for costs involved in preparation and post-function requirements.

ii. Receptions and Similar Functions. After 5 p.m., maximum numbers to be considered are as established in Subparagraphs 2.a and b above, per designated building. Minimum requirement will be one hour plus set-up and cleaning.

Guests	First Hour	Each Additional Hour
1-200	$600	$150
201-300	$700	$200
301-500	$800	$250

(a). An additional cleaning repair fee of $300 will be charged for costs involved in preparation and post-function responsibilities.

iii. Sit-Down Dinner. After 5 p.m., maximum 100:

Guests	First Hour	Each Additional Hour
1-100	$800	$300

(a). An additional cleaning repair fee of $500 will be charged for costs involved in preparation and post-function requirements.

(b). All sit-down dinners must be catered to include waiters serving dinners to each table. The ratio of waiters to diners must be at least 1 to 10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:342.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museums, LR 11:683 (July 1985), amended LR 13:83 (February 1987), LR 16:295 (April 1990), LR 20:783 (July 1994), LR 24:2233 (December 1998), LR 31:1055 (May 2005).

Robert E. Wheat
Assistant Secretary

0505#007

RULE

Department of Culture, Recreation, and Tourism
Office of State Museums

Museum Fees (LAC 25:III.105)

The Department of Culture, Recreation, and Tourism, Office of State Museums has amended the following Rule relative to admissions fees to buildings of the Louisiana State Museum system, per authority of R.S. 25:342. The purpose of the amendment is to establish fees for museums recently added to the State Museum system by Legislative action and to align all museum building admission fees to that of similar types of activities and attractions throughout the state.

Title 25
CULTURAL RESOURCES
PART III. Office of State Museums
Chapter 1. Public Access
§105. Admissions Fees

A. Admission fees for single admissions to the Louisiana State Museum buildings are as indicated.

Building	Location	Adult Single Building	Student, Senior Citizen, Active Military, Single Building	12 Years of Age and Under
Cabildo with Arsenal	New Orleans	$6	$5	Free
Presbytere	New Orleans	$6	$5	Free
Old U.S. Mint	New Orleans	$6	$5	Free
Louisana State Museum Baton Rouge	Baton Rouge	$6	$5	Free
1850 House	New Orleans	$3	$2	Free
Madame John's Legacy	New Orleans	$3	$2	Free
Louisiana State Museum Patterson	Patterson	$3	$2	Free
Louisiana State Museum North Louisiana	Natchitoches	$3	$2	Free
E.D. White Historic House	Thibodaux	$2	$1	Free

B. Combination admissions may be purchased by selecting two or more buildings, to which a 20 percent discount will be applied. Visitor may select from any Louisiana State Museum listed building.

C. Special or group tour rates and requirements for Louisiana State Museum buildings are as indicated.

1. There must be a minimum of 15 persons in the group or tour which are old enough to require an admissions fee.

2. Groups/tours should make advance arrangements by calling the following telephone numbers.

New Orleans 504) 568-6968 or 1-800-568-6968
Patterson (985) 395-7067
Thibodaux (985) 395-7067
Natchitoches (318) 357-2270
Baton Rouge (225) 219-0715

3. Groups/tours which meet the criteria in Paragraph C.1 above will be discounted by 20 percent from the appropriate single building rate.

D. School Groups

1. Must be affiliated with a recognized public or private school system.

2. Must be accompanied by at least one chaperon per every five children as a minimum, these chaperons will be admitted free, up to one per every five children. Additional chaperons will be required to pay the admission fee.

3. Prefer advance arrangements be made to accommodate scheduling. For advance arrangements, call:

New Orleans (504) 568-6968 or 1-800-568-6968
Patterson (985) 395-7067
Thibodaux (985) 395-7067
Natchitoches (318) 357-2270
Baton Rouge (225) 219-0715

4. School groups admitted free when criteria stated above is met.

E. Visitors may choose from any/all museum buildings which are open to the public on the date of the visit.

F. Scheduling/reserving a visit to any State Museum building may be done using the 1-800-568-6968 number, from any location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:342.

HISTORICAL NOTE: Promulgated by the Dept. of Culture, Recreation and Tourism, Office of the State Museum, LR 12:89 (February 1986), amended LR 13:82 (February 1987), LR 20:784 (July 1994), LR 24:2235 (December 1998), LR 30:1057 (May 2005).

Robert E. Wheat
Assistant Secretary

0505#008

RULE

Office of the Governor
Division of Administration
Racing Commission

Ex Parte Communications (LAC 35:I.302)

The Louisiana State Racing Commission hereby adopts LAC 35:I.302.*Ex Parte* Communications, as follows.

Title 35
HORSE RACING
Part I. General Provisions
Chapter 3. General Rules
§302. Ex Parte Communications

A. Commissioners shall not communicate *ex parte* with any licensee, applicant for license, or licensee's representative on the merits of matters in which the commission may make findings of fact, conclusions of law or otherwise render a final agency decision, except upon notice and opportunity for all parties to participate. This Rule is not intended to prohibit communications relating to procedure, the disposition of *ex parte* matters, such as requests for hearing or on matters of regulatory policy not the subject of a pending adjudication.

B. Any member of the commission engaging in *ex parte* communications with any licensee, applicant for licensee, or licensee's representative on the merits of an adjudication pending before the commission shall withdraw from participating in any adjudicative hearing, discussion or deliberation on these matters. "Adjudication pending" shall mean any matter which has been the subject of a stewards' investigation, action or ruling brought before the commission as an appeal or by referral to be finally determined before judicial relief may be sought.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:960.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 31:1058 (May 2005).

Charles A. Gardiner III
Executive Director

0505#013

RULE

Office of The Governor
Division of Administration
Racing Commission

Racing Commissioners (LAC 46:XLI.Chapter 23)

The Louisiana State Racing Commission hereby adopts LAC 46:XLI.Chapter 23, Racing Commissioners, as follows.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLI. Horseracing Occupations
Chapter 23. Racing Commissioners
§2301. Prohibitions

A. No member of the Louisiana State Racing Commission shall be an official, member of any board of directors, or person financially interested in any racetrack or race meeting licensed by the commission. No member may directly or indirectly own race horses which participate in any race meeting licensed by the commission. However, nothing shall prohibit a member of the commission from owning a horse that sired or bred a racehorse that participates in a race meeting licensed by the commission, or from participating in a breeder or stallion award, provided the member does not have an ownership interest in the racehorse that competed in the race meeting at the time of the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:144 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 31:1058 (May 2005).

§2303. Removal

A. Any member of the commission violating R.S. 4:144(B)(2) or the foregoing Section shall, after verified complaint, investigation and resolution of the alleged violation, be removed from the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:144 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 31:1058 (May 2005).

§2305. Complaints

A. Any person may file a written complaint alleging a prohibited violation which complaint shall be handled in the same manner as all other legal matters pursuant to R.S. 4:146(A).

B. In order for the written complaint to be considered, it must comply with the following:

1. it must be verified or notarized, subjecting such complainant to discipline for perjury under the rules and other applicable laws;

2. it must contain the full name, address and telephone number of the complainant;

3. it must clearly identify by name the commissioner who is alleged to have violated the rule or law, clearly identify the kind of alleged violation, and must state facts in detail and with particularity within the complainant's own knowledge of the substance of the alleged violation including date, time, place and circumstance of the violation;

4. it must identify by name and address all persons known to or believed by the complainant to have direct knowledge or information of the alleged violation, and provide a brief description of the knowledge or information; and

5. it must explain and attach all relevant documents which tend to establish the violation and which are available to the complainant at the time of making the complaint and to identify any other relevant documents known to exist which are unavailable to the complainant along with the name and address of the custodian of each such document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:144 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 31:1059 (May 2005).

§2307. Investigation

A. Upon receipt, the complaint shall be immediately forwarded for handling and representation as all other legal matters in accordance with R.S. 4:147(A) after which a determination shall be made as to whether a valid complaint has been stated. The complainant shall be given written notice of any deficiencies in the complaint and be afforded an opportunity to correct any errors. Notice of receipt of a valid complaint shall be immediately forwarded to members of the commission.

B. The commissioner against whom the complaint is filed shall have 10 days after its receipt within which to either submit his/her resignation to the governor or to furnish a written response to the complaint. If the commissioner fails to timely furnish a written response, the chairman, or his designated vice-chair, shall immediately suspend such commissioner pending conclusion of the investigation, which shall be immediately commenced. The governor shall be immediately notified of such action in writing.

C. Upon timely receipt of a written response to the complaint by the commissioner against whom the complaint is made, preliminary interviews shall be conducted within 10 days of the complainant filing the complaint and of the commissioner as well as other persons who may be reasonably interviewed and who have been identified as having knowledge of the matter. At the conclusion of the period for interviews, the commission shall be advised whether there is reasonable cause to believe that the commissioner has done some act which, if proved, would constitute a prohibited violation of the law or the rules of racing.

D. If a determination is made that there is no reasonable cause, no investigation shall be commenced unless and until a majority of the commission at the next regular or special meeting of the commission decide to commence an investigation. If a determination is made that there is reasonable cause, an investigation shall be commenced until a majority of the commission at a regular or special meeting of the commission decide to terminate the investigation. Upon commencement of an investigation, the chairman, or his designated vice-chair, shall suspend the commissioner pending conclusion of the investigation. The governor and all other members of the commission shall be immediately notified of such action in writing.

E. The investigation shall be concluded within 30 days of its commencement, except upon a showing of good cause which is authorized by the chairman, or his designated vice-chair. At the conclusion of the investigation a written report and recommendation shall be filed which includes suggested findings of fact and conclusions of law, to the commission, to the suspended commissioner, and to the complainant. Within 10 days the suspended commissioner and the complainant may file written objections with the commission to the report and recommendation. At the next regular or special meeting of the commission following receipt of the report and recommendation and the expiration for the time to file written objections, the commission shall conduct a public hearing on whether to accept or reject the report and recommendations. If any written objection is filed, the suspended commissioner and the complainant may each be represented by counsel at the public hearing and participate, in calling and cross-examining witnesses and arguing the merits. If no objection is timely filed, the commission may at the public hearing accept and adopt the report and recommendations.

F. At the conclusion of the public hearing, a resolution to immediately remove the suspended commissioner shall require a vote of two-thirds of the members present and voting. There shall be no reconsideration of the resolution. There shall be no appeal to any court nor any judicial review of the resolution or the removal. Any member so removed shall not be eligible for reappointment as a commissioner for a period of five years. The governor and the Secretary of State shall be notified of the removal of the commissioner, the reasons therefore, and of the legal impediment to reappointment.

G. If at the conclusion of the public hearing there is no resolution offered to remove the commissioner or if one is offered but is unsuccessful, then the chairman, or his designated vice-chair, shall on behalf of the commission terminate the suspension of the commissioner. There shall be no appeal to any court nor any judicial review of the termination of the suspension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:144 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 31:1059 (May 2005).

Charles A. Gardiner III
Executive Director

0505#012

RULE

Student Financial Assistance Commission
Office of Student Finanical Assistance

Scholarship/Grant Programs Rockefeller Scholarship
(LAC 28:IV.501, 506, and 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended the Rules of the Scholarship/Grant Programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)].

Title 28
EDUCATION
Part IV. Student Financial AssistanceCHigher Education Scholarship and Grant Programs
Chapter 5. Applications, Federal Grant Aid and ACT Test
§501. Initial Application

A.1. - B.4. …

C. Initial Application for Louisiana Scholarship and Grant Programs other than TOPS for High School Graduates of 2004 and Thereafter

1. All new applicants for Louisiana scholarship and grant programs other than TOPS and the Rockefeller State Wildlife Scholarship must apply for federal grant aid by completing the Free Application for Federal Student Aid (FAFSA) for the academic year following the year the student graduated from high school. For example, if the student will graduate from high school in school year 2003-2004, submit the 2004-2005 version of the FAFSA.

2. All new applicants for the Rockefeller State Wildlife Scholarship must apply for federal grant aid by submitting the FAFSA so that it is received no later than July 1 immediately preceding the Academic Year (College) for which the scholarship is sought. For example, if the student wants to apply for a Rockefeller Scholarship to be awarded during the 2005-2006 Academic Year (College), submit the 2005-2006 version of the FAFSA no later than July 1, 2005.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), LR 24:1900 (October 1998), amended LR 26:1994 (September 2000), repromulgated LR 27:1846 (November 2001), amended LR 29:554 (April 2003), LR 30:2015 (September 2004), LR 31:1060 (May 2005).

§506. Proof of Compliance

A. As proof of compliance with the state's final deadline for submitting the FAFSA, or the On-Line Application, LASFAC will accept the documentation listed in §506.A.1-6. No other form of verification, including notarized or certified statements, will be accepted as proof of compliance with the deadline requirement.

1. - 6. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 30:2018 (September 2004), amended LR 31:1060 (May 2005).

Chapter 21. Miscellaneous Provisions and Exceptions
§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - E.7.c. …

8. Death of Immediate Family Member

a. Definition. The student's spouse, parent, stepparent, custodian, dependent, sister or brother, step sibling, grandparent or step grandparent dies.

E.8.b - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), repromulgated LR 27:1866 (November 2001), amended LR 27:1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330, 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373 (November 2003), LR 29:2373 (November 2003), LR 30:785 (April 2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005).

George Badge Eldredge
General Counsel

0505#001

RULE

Department of Environmental Quality
Office of Environmental Assessment

Authorized Medical Physicist and Medical Event
(LAC 33:XV.703, 704, and 763)(RP040)

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 Radiation Protection regulations, LAC 33:XV.703, 704, and 763 (Log #RP040).

"Authorized medical physicist" is a new definition that the NRC requires the agreement states to include in the regulations. The new term was added to the Radiation Protection regulations in previous rulemaking, but was inadvertently left out of parts of LAC 33:XV.703 and 704. This rule corrects this oversight. Because all of the training and experience requirements for the authorized medical physicist have not yet been adopted into Part XV, eliminating the term "teletherapy physicist" may be premature, so this term is left in the regulations. Additionally, a change to replace the term "misadministration" with "medical event" in LAC 33:XV.763 was missed in previous rulemaking and is corrected in this rule. The basis and rationale for this rule are to correct oversights in previous rulemaking in order to mirror the federal regulations.

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 XV. Radiation Protection
Chapter 7. Use of Radionuclides in the Healing Arts
§703. License Amendments and Provisions for Research Involving Human Subjects

A. - A.1. ...

2. before permitting anyone to work as an authorized user, authorized medical physicist, or authorized nuclear pharmacist under the license, except an individual who is:

a. - b. ...

c. identified as an authorized user, an authorized medical physicist, or an authorized nuclear pharmacist on a department, Nuclear Regulatory Commission, licensing state, or agreement state license that authorizes the use of radioactive material in medical use or in the practice of nuclear pharmacy, respectively; or

d. identified as an authorized user, an authorized medical physicist, or an authorized nuclear pharmacist on a permit issued by a department, Nuclear Regulatory Commission, licensing state, or agreement state specific licensee of broad scope that is authorized to permit the use of radioactive material in medical use or in the practice of nuclear pharmacy, respectively;

3. before changing a radiation safety officer, authorized medical physicist, or teletherapy physicist;

A.4. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 24:2101 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2587 (November 2000), LR 30:1173 (June 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005).

§704. Notifications

A. A licensee shall provide to the Office of Environmental Services, Permits Division, a copy of the board certification, the Nuclear Regulatory Commission or agreement state license, or the permit issued by a licensee of broad scope for each individual no later than 30 days after the date that the licensee permits the individual to work as an authorized user, an authorized nuclear pharmacist, or an authorized medical physicist in accordance with LAC 33:XV.703.A.2.

B. A licensee shall notify the Office of Environmental Services, Permits Division, by letter no later than 30 days after:

1. - 2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2101 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2587 (November 2000), LR 30:1173 (June 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005).

§763. Training

A. - F.2.b.iii. ...

iv. using administrative controls to prevent a medical event involving the use of radioactive material; and

F.2.b.v. - O. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:1186 (June 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005).

Wilbert F. Jordan, Jr.
Assistant Secretary

0505#027

RULE

Department of Environmental Quality
Office of Environmental Assessment

Air Regulations
(LAC 33:III.507, 1509, and 2305)(AQ248)

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.507, 1509, and 2305 (Log #AQ248).

This Rule corrects the unit of measurement for the concentration of hydrogen sulfide that is exempt from the control measures of flaring or combustion, standardizes Part 70 reporting procedures for upset provisions, and removes a reference to Chapter 31, which was repealed and replaced with an incorporation by reference. The basis and rationale for this Rule are to correct errors in the regulations.

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 5. Permit Procedures
§507. Part 70 Operating Permits Program

A. - J.2.c. …

d. the owner or operator notified the permitting authority in accordance with LAC 33:I.Chapter 39.

3. - 5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality

Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005).

Chapter 15. Emission Standards for Sulfur Dioxide

§1509. Reduced Sulfur Compounds (New and Existing Sources)

A. All refinery process gas streams or any other process gas stream that contains sulfur compounds measured as hydrogen sulfide shall be controlled by flaring or combustion. Units emitting less than 10 tons per year as hydrogen sulfide, or a concentration less than 400 ppmv hydrogen sulfide, may be exempted from this Section by the administrative authority unless a more stringent federal or state requirement is applicable.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:375 (April 1992), LR 24:2241 (December 1998), amended by the Office of Environmental Assessment, LR 31:1062 (May 2005).

Chapter 23. Control of Emissions for Specific Industries[1]

Subchapter C. Phosphate Fertilizer Plants

§2305. Fluoride Emission Standards for Phosphate Fertilizer Plants

A. - B. …

C. Reserved.

D. - E. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Environmental Assessment, LR 31:1062 (May 2005).

[1] Regulation of emissions of volatile organic compounds for certain industries are presented in Chapter 21.

Wilbert F. Jordan, Jr.
Assistant Secretary

0505#025

RULE

Department of Environmental Quality
Office of Environmental Assessment

Control of Emission of Organic Compounds Exemptions
(LAC 33:III.2117)(AQ250*)

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.2117 (Log #AQ250*).

This Rule is identical to federal regulations found in 69 FR 69290-69298, No. 228 (November 29, 2004), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4314, Baton Rouge, LA 70821-4314. 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 reorganizes the list of organic compounds that are exempt from control requirements of LAC 33:III.Chapter 21 to make it more practical. The rule also adds four compounds to the exemptions list. The four new compounds are: 1,1,1,2,2,3,3-heptafluoro-3-methoxypropane (n-$C_3F_7OCH_3$, HFE-7000); 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE-7500); 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea); and methyl formate ($HCOOCH_3$). These newly added compounds are considered to make a negligible contribution to tropospheric ozone formation and should not be counted as volatile organic compounds (VOC). This rulemaking is necessary to keep the state list of exempted compounds identical to the federal list of compounds that make a negligible contribution to tropospheric ozone formation. The basis and rationale for this Rule are to mirror the federal regulations.

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 21. Control of Emission of Organic Compounds

Subchapter A. General

§2117. Exemptions

A. The compounds listed in the following table are exempt from the control requirements of this Chapter.

Exempt Compounds
acetone
1-chloro-1,1-difluoroethane (HCFC-142b)
chlorodifluoromethane (HCFC-22)
1-chloro-1-fluoroethane (HCFC-151a)
chlorofluoromethane (HCFC-31)
chloropentafluoroethane (CFC-115)
2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)
cyclic, branched, or linear completely fluorinated alkanes
cyclic, branched, or linear completely fluorinated ethers with no unsaturations
cyclic, branched, or linear completely fluorinated tertiary amines with no unsaturations
cyclic, branched, or linear completely methylated siloxanes
1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC-43-10mee)
dichlorodifluoromethane (CFC-12)
1,1-dichloro-1-fluoroethane (HCFC-141b)
1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb)
3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca)
1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)
1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a)
1,1-difluoroethane (HFC-152a)
difluoromethane (HFC-32)
ethane
3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE–7500)
1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$)
ethylfluoride (HFC-161)
1,1,1,2,2,3,3-heptafluoro-3-methoxypropane (n-$C_3F_7OCH_3$, HFE–7000)
1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea)
2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OCH_3$)

Exempt Compounds
2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OC_2H_5$)
1,1,1,2,3,3-hexafluoropropane (HFC-236ea)
1,1,1,3,3,3-hexafluoropropane (HFC-236fa)
methane
methyl acetate
methylene chloride (dichloromethane)
methyl formate ($HCOOCH_3$)
1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ($C_4F_9OCH_3$)
parachlorobenzotrifluoride (PCBTF)
1,1,1,3,3- pentafluorobutane (HFC-365mfc)
pentafluoroethane (HFC-125)
1,1,1,2,3-pentafluoropropane (HFC-245eb)
1,1,1,3,3-pentafluoropropane (HFC-245fa)
1,1,2,2,3-pentafluoropropane (HFC-245ca)
1,1,2,3,3-pentafluoropropane (HFC-245ea)
perchloroethylene (tetrachloroethylene)
sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine
1,1,1,2-tetrafluoroethane (HFC-134a)
1,1,2,2-tetrafluoroethane (HFC-134)
1,1,1-trichloroethane (methyl chloroform)
trichlorofluoromethane (CFC-11)
1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113)
1,1,1-trifluoro-2,2-dichloroethane (HCFC-123)
1,1,1-trifluoroethane (HFC-143a)
trifluoromethane (HFC-23)

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:118 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:289 (March 1994), LR 21:681 (July 1995), LR 21:1330 (December 1995), repromulgated LR 22:14 (January 1996), amended LR 22:703 (August 1996), LR 23:1661 (December 1997), LR 24:22 (January 1998), LR 25:258 (February 1999), amended by the Office of Environmental Assessment, LR 31:1062 (May 2005).

Wilbert F. Jordan, Jr.
Assistant Secretary

0505#023

RULE

Department of Environmental Quality
Office of Environmental Assessment

Insignificant Activities List
(LAC 33:III.501)(AQ244)

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.501 (Log #AQ244).

This Rule revision corrects contradictory language regarding "insignificant activities" that do not need a permit. LAC 33:III.501.B.5 states in part, "Any activity for which a state or federal applicable requirement applies is not insignificant, even if the activity meets the criteria below." However, Part D of the Insignificant Activities List table allows for an exemption if "no enforceable permit conditions are necessary to ensure compliance with any applicable requirement." Based on the existing list of insignificant sources, it was determined that the language in Part D of the table more accurately reflects the intent of the list. For example, the first entry in the table (A.1) is external combustion equipment with a design rate greater than or equal to 1 million Btu per hour (MM Btu/hr), but less than or equal to 10 MM Btu/hr. Small gas-fired heaters typically fall into this category. Such equipment would be subject to the opacity provisions of LAC 33:III.1101.B and the particulate limitations of LAC 33:III.1313.C; however, enforceable permit conditions (e.g., restrictions on fuel use or hours of operation) are not necessary to ensure compliance with these requirements. The basis and rationale for this Rule are to correct contradictory language in the Insignificant Activities List.

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

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - B.4.b. …

5. Insignificant Activities List. Those activities listed in the following table are approved by the permitting authority as insignificant on the basis of size, emission or production rate, or type of pollutant. By such listing, the permitting authority exempts certain sources or types of sources from the requirement to obtain a permit under this Chapter unless it is determined by the permitting authority on a site-specific basis that any such exemption is not appropriate. The listing of any activity or emission unit as insignificant does not authorize the maintenance of a nuisance or a danger to public health or safety. Any activity for which a federal applicable requirement applies is not insignificant, even if the activity meets the criteria below. For the purpose of permitting requirements under LAC 33:III.507, no exemption listed in the following table shall become effective until approved by the administrator in accordance with 40 CFR Part 70. For purposes of the insignificant activities listed in this Paragraph, *aggregate emissions* shall mean the total emissions from a particular insignificant activity or group of similar insignificant activities (e.g., A.1, A.2, etc.) within a permit per year.

Insignificant Activities List	
* * * [See Prior Text in A. – B.31]	
32.	generators, boilers, or other fuel burning equipment that is of equal or smaller capacity than the primary operating unit, that cannot be used in conjunction with the primary operating unit [except for short durations when shutting down the primary operating unit (maximum of 24 hours) and when starting up the primary operating unit until it reaches steady-state operation (maximum of 72 hours)], and that does not increase emissions of or the potential to emit any regulated air pollutant;
* * * [See Prior Text in B.33 – C.5]	

Insignificant Activities List
D. Exemptions Based on Emissions Levels
The owner or operator of any source may apply for an exemption from the permitting requirements of this Chapter for any emissions unit provided each of the following criteria are met. Activities or emissions units exempt as insignificant based on these criteria shall be included in the permit at the next renewal or permit modification, as appropriate. a. The emissions unit emits and has the potential to emit no more than five tons per year of any regulated pollutant. b. The emissions unit emits and has the potential to emit less than the minimum emission rate listed in LAC 33:III.5112, Table 51.1, for each Louisiana toxic air pollutant. c. The emissions unit emits and has the potential to emit less than the de minimis rate established pursuant to Section 112(g) of the federal Clean Air Act for each hazardous air pollutant. d. No new federally enforceable limitations or permit conditions are necessary to ensure compliance with any applicable requirement.

[1] State or federal regulations may apply.

B.6 - C.10. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005).

Wilbert F. Jordan, Jr.
Assistant Secretary

0505#024

RULE

Department of Environmental Quality
Office of Environmental Assessment

Medical Events Occurring from X-Rays
(LAC 33:XV.102, 613, 615, 915, and 917)(RP038)

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 Radiation Protection regulations, LAC 33:XV.102, 613, 615, 915, and 917 (Log #RP038).

This Rule adds new sections to the radiation regulations for medical events occurring as a result of the misadministration of X-rays to human beings in the healing arts. LAC 33:XV.613 and 915 are being added to mirror the changes adopted for radioactive materials in LAC 33:XV.712, for notifications of medical events involving the use of X-rays. LAC 33:XV.615 and 917 are being added to mirror the changes adopted for radioactive materials in LAC 33:XV.710, for notifications for embryos/fetuses of medical events involving the use of X-rays. In June 2004, the department adopted new regulations for medical use of radioactive materials in order to mirror the new federal regulations. The definition for misadministration was eliminated and a new definition for medical event was adopted. The new definition was taken verbatim from the NRC rule, which does not include misadministrations occurring from X-rays. The department regulates diagnostic X-ray energies and linear accelerators in LAC 33:XV.Chapters 6 and 9, while the NRC does not. Additionally, new federal reporting requirements were also adopted regarding dose to an embryo/fetus. These new requirements need to be adopted with regard to X-rays as well, for both diagnostic and therapeutic X-ray energies. The basis and rationale for this rule are to modify the adopted federal regulation definition of medical event for misadministrations of radioactive material and reporting requirements for a dose to an embryo/fetus to include not only radioactive material but also X-ray radiation, which is not regulated by the NRC but is regulated by the department.

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 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.

* * *

Medical Event an event that meets the criteria in LAC 33:XV.613.A, 712.A, or 915.A.

* * *

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).

Chapter 6. X-Rays in the Healing Arts

§613. Notifications, Reports, and Records of Medical Events

A. A registrant shall report any medical event, except for an event that results from patient intervention, in which the administration of radiation involves the wrong patient, a procedure different than that which was authorized by the licensed practitioner of the healing arts, or a body site different from that which was authorized and intended to be exposed by the authorized X-ray procedure.

B. A registrant shall report any event resulting from intervention of a patient or human research subject in which the administration of radiation results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.

C. All reports, notifications, and records shall be in accordance with LAC 33:XV.712.C, D, and F.

D. Aside from the notification requirement, nothing in this Section affects any rights or duties of registrants and physicians in relation to each other, the individual, or the individual's responsible relatives or guardians.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1064 (May 2005).

§615. Report and Notification of a Dose to an Embryo/Fetus

A. A registrant shall report any dose to an embryo/fetus in excess of 50 mSv (5 rem) dose equivalent that is a result of a diagnostic X-ray procedure, in accordance with LAC 33:XV.710.A and C-F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1065 (May 2005).

Chapter 9. Radiation Safety Requirements for Particle Accelerators

Subchapter B. Radiation Safety Requirements for the Use of Particle Accelerators

§915. Notifications, Reports, and Records of Medical Events

A. A registrant shall report any medical event, except for an event that results from patient intervention, in which the administration of radiation results in one or more of the events described in LAC 33:XV.712.A or involves the wrong patient, wrong treatment site, or wrong mode of treatment.

B. A registrant shall report any event resulting from intervention of a patient or human research subject in which the administration of radiation results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.

C. All reports, notifications, and records shall be in accordance with LAC 33:XV.712.C, D, and F.

D. Aside from the notification requirement, nothing in this Section affects any rights or duties of registrants and physicians in relation to each other, the individual, or the individual's responsible relatives or guardians.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1065 (May 2005).

§917. Report and Notification of a Dose to an Embryo/Fetus

A. A registrant shall report any dose to an embryo/fetus in excess of 50 mSv (5 rem) dose equivalent that is a result of a therapeutic X-ray procedure, in accordance with LAC 33:XV.710.A and C-F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1065 (May 2005).

Wilbert F. Jordan, Jr.
Assistant Secretary

0505#026

RULE

Department of Environmental Quality
Office of Environmental Assessment

Underground Storage Tanks
(LAC 33:XI.103, 301, 303, 305, 501, 503, 505, 507, 509, 701, 703, 705, 707, 901, 903, 905, 907, 1303, 1307, 1311, and 1313)(UT011)

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 Underground Storage Tanks regulations, LAC 33:XI.103, 301, 303, 305, 501, 503, 505, 507, 509, 701, 703, 705, 707, 901, 903, 905, 907, 1303, 1307, 1311, and 1313 (Log #UT011).

Amendments are being made to update the Underground Storage Tank regulations to the standards that reflect the current practice of management and operation of USTs. Surveillance and enforcement staff are reporting discrepancies in how owner/operators are interpreting the regulations resulting in delays in detecting releases. Clarifications are made to standards for release detection methods, corrosion protection, permanent closure, and temporary closure. External piping in contact with the ground or water will be required to have cathodic protection. Temporarily-closed new or upgraded tanks will be required to have assessments performed after two years of temporary closure to remain temporarily closed. The basis and rationale for this Rule are to protect the environment and the safety of human 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 XI. Underground Storage Tanks

Chapter 1. Program Applicability and Definitions

§103. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless specifically defined otherwise in LAC 33:XI.1105 or 1303.

* * *

De Minimis Concentration the concentration of a regulated substance below which no significant impact to human health or the environment would result if a release occurred, as determined by LAC 33:I.1307.

* * *

Owner

a. The *owner* of a UST is, for purposes of these regulations:

i. the current owner of the land under which the tank is or was buried;

ii. any legal owner of the tank;

iii. any known operator of the tank;

iv. any lessee;

v. any lessor.

b. If one person defined as an owner complies, it shall be deemed compliance by all persons defined as owners.

Permanent Closure the process of removing and disposing of a UST system no longer in service, including the process of abandoning such a system in place through the use of prescribed techniques for the purging of vapors and the filling of the vessel with an inert material, the process of properly labeling a tank, and the process of collecting subsurface samples.

* * *

Registered Tank a UST for which an owner/operator has filed the required UST registration forms (UST-REG-01 and 02) with the department.

* * *

Release any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a UST system. Releases into the air will be governed by LAC 33:Part III and LAC 33.I.Chapter 39.

* * *

Response Action any technical services activity or specialized services activity, including but not limited to, assessment, planning, design, engineering, construction, operation of a recovery system, or ancillary services, that is carried out in response to any discharge or release or threatened release of motor fuels into the groundwater, surface waters, or subsurface soils.

Response Action Contractor a person who has been approved by the department and is carrying out any response action, excluding a person retained or hired by such person to provide specialized services relating to a response action. When emergency conditions exist as a result of a release from a motor fuel underground storage tank, this term shall include any person performing department-approved emergency response actions during the first 72 hours following the release.

* * *

Technical Services activities performed by a *response action contractor*, including but not limited to, oversight of all assessment field activities; all reporting, planning, and development of corrective action plans and designing of remedial activities; performance of groundwater monitoring and discharge monitoring; performance of operation and maintenance of remedial systems; and oversight of specialized services performed by a subcontractor.

Temporary Closure the temporary removal from service of a UST.

* * *

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, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 27:520 (April 2001), amended by the Office of Environmental Assessment, LR 31:1065 (May 2005).

Chapter 3. Registration Requirements, Standards, and Fee Schedule

§301. Registration Requirements

A. Existing UST Systems

1. All owners of *existing UST systems* (as defined in LAC 33:XI.103) were required to register such systems by May 8, 1986, (USTs installed after that date were required to be registered within 30 days of bringing such tanks into use) on a form approved by the department. Tanks filled with a solid, inert material before January 1, 1974, are not required to be registered with the department.

A.2. - B.1.d. …

2. All owners of new UST systems must ensure that the installer certifies on the registration form that the methods used to install the tanks and piping comply with the requirements of LAC 33:XI.303.A.4.a. Beginning January 20, 1992, registration forms shall include the name and department-issued certificate number of the individual exercising supervisory control over *installation-critical junctures* (as defined in LAC 33:XI.1303) of a UST system.

C. All UST system owners or operators shall comply with the following requirements.

1. Any person who sells a UST system shall so notify the Office of Environmental Services, Permits Division in writing within 30 days after the date of the transaction. A person selling a UST must also notify the person acquiring a regulated UST system of the owner's registration obligations under this Section.

2. Any person who acquires a UST system shall submit to the Office of Environmental Services, Permits Division an amended registration form within 30 days after the date of acquisition.

3. A current copy of the registration form must be kept on-site or at the nearest staffed facility.

4. No owner or operator shall allow a regulated substance to be placed into a new UST system that has not been registered.

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, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), LR 20:294 (March 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:475 (March 2002), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 31:1066 (May 2005).

§303. Standards for UST Systems

A. LAC 33:XI.599.Appendix A lists codes of practice developed by nationally-recognized associations or independent testing laboratories that shall be used to comply with these regulations.

B. Standards for New UST Systems. In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances, all owners and operators of new UST systems must meet the requirements of this Subsection. No

portion of a new UST system shall be installed within 50 feet of an active or abandoned water well unless the entire system meets the requirements of LAC 33:XI.703.C.2.

1. Tanks. Each tank must be properly designed and constructed, and any portion underground that routinely contains product must be protected from corrosion in accordance with Subsection A of this Section and as described below:

a. the tank is constructed of fiberglass-reinforced plastic; or

Note: Repealed.

b. the tank is constructed of metal and cathodically protected in the following manner:

i. the tank is coated with a suitable dielectric material;

ii. field-installed cathodic protection systems are designed by a corrosion expert;

iii. impressed current systems are designed to allow determination of current operating status as required in LAC 33:XI.503.A.3; and

iv. cathodic protection systems are operated and maintained in accordance with LAC 33:XI.503 or according to guidelines established by the department; or

Note: Repealed.

c. the tank is constructed of a metal-fiberglass-reinforced-plastic composite; or

Note: Repealed.

d. the tank is constructed of metal without additional corrosion protection measures, provided that:

i. the tank is installed at a site that a corrosion expert determines will not be corrosive enough to cause the tank to have a release due to corrosion during its operating life; and

ii. owners and operators maintain records that demonstrate compliance with the requirements of Clause B.1.d.i of this Section for the remaining life of the tank; or

e. the tank construction and corrosion protection are determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the constructions listed in Subparagraphs B.1.a-d of this Section.

2. Piping. Piping that routinely contains regulated substances and is in contact with the ground or water must be properly designed, constructed, and protected from corrosion in accordance with Subsection A of this Section and as described below:

a. the piping is constructed of fiberglass-reinforced plastic; or

Note: Repealed.

b. the piping is constructed of metal and cathodically protected in the following manner:

i. the piping is coated with a suitable dielectric material;

ii. field-installed cathodic protection systems are designed by a corrosion expert;

iii. impressed current systems are designed to allow determination of current operating status as required in LAC 33:XI.503.A.3; and

iv. cathodic protection systems are operated and maintained in accordance with LAC 33:XI.503 or guidelines established by the department; or

Note: Repealed.

c. the piping is constructed of metal without additional corrosion protection measures, provided that:

i. the piping is installed at a site that a corrosion expert determines is not corrosive enough to cause the piping to have a release due to corrosion during its operating life; and

ii. owners and operators maintain records that demonstrate compliance with the requirements of Clause B.2.c.i of this Section for the remaining life of the piping; or

Note: Repealed.

d. the piping construction and corrosion protection are determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements in Subparagraphs B.2.a-c of this Section.

3. Spill and Overfill Prevention Equipment

a. Except as provided in Subparagraph B.3.b of this Section, to prevent spilling and overfilling associated with product transfer to the UST system, owners and operators must use:

i. spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin); and

ii. overfill prevention equipment that will:

(a). automatically shut off flow into the tank when the tank is no more than 95 percent full;

(b). alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm; or

(c). restrict flow 30 minutes prior to overfilling, or alert the operator with a high-level alarm one minute before overfilling, or automatically shut off flow into the tank so that none of the fittings on top of the tank are exposed to product because of overfilling.

b. Owners and operators are not required to use the spill and overfill prevention equipment specified in Subparagraph B.3.a of this Section if:

i. alternative equipment is used that the department determines is no less protective of human health and the environment than the equipment specified in Clause B.3.a.i or ii of this Section; or

ii. the UST system is filled by transfers of no more than 25 gallons at one time.

4. Installation Procedures

a. Installation. All tanks and piping must be installed in accordance with Subsection A of this Section and in accordance with the manufacturer's instructions.

Note: Repealed.

b. Certification of Installation and Verification of Installer Certification

i. From the date of promulgation of these regulations until January 20, 1992, owners and operators must certify installations as follows. All owners and operators must ensure that one or more of the following methods of certification, testing, or inspection is used to demonstrate compliance with Subparagraph B.4.a of this Section by providing a certification of compliance on the UST registration form (UST-REG-02) in accordance with LAC 33:XI.301:

(a). the installer has been certified by the tank and piping manufacturers; or

(b). the installation has been inspected and certified by a registered professional engineer with education and experience in UST system installation; or

(c). the installation has been inspected and approved by the department; or

(d). all work listed in the manufacturer's installation checklists has been completed; or

(e). the owner and operator have complied with another method for ensuring compliance with Subparagraph B.4.a of this Section that is determined by the department to be no less protective of human health and the environment.

ii. Beginning January 20, 1992, all owners and operators must ensure that the individual exercising supervisory control over *installation-critical junctures* (as defined in LAC 33:XI.1303) of a UST system is certified in accordance with LAC 33:XI.Chapter 13. To demonstrate compliance with Subparagraph B.4.a of this Section, all owners and operators must provide a certification of compliance on the UST Registration of Technical Requirements Form (UST-REG-02) within 60 days of the introduction of any regulated substance. Forms shall be filed with the Office of Environmental Services, Permits Division.

c. Notification of Installation. The owner and operator must notify the Office of Environmental Compliance, Surveillance Division in writing at least 30 days before beginning installation of a UST system by:

i. completing the Installation, Renovation and Upgrade Notification Form (UST-ENF-04);

ii. notifying the appropriate regional office of the Office of Environmental Compliance, Surveillance Division by mail or fax seven days prior to commencing the installation and before commencing any *installation-critical juncture* (as defined in LAC 33:XI:1303);

iii. including in the notification a statement of the number of active or abandoned water wells within 50 feet of the UST system and the type of system to be installed; and

iv. including in the notification the methods to be used to comply with LAC 33:XI.Chapter 7.

C. Upgrading Existing UST Systems to New System Standards

1. Not later than December 22, 1998, all existing UST systems must comply with one of the following sets of requirements:

a. new UST system performance standards under Subsection B of this Section; or

b. the upgrading requirements in Paragraphs C.3-6 of this Section.

2. After December 22, 1998, all existing UST systems not meeting the requirements of Paragraph C.1 of this Section must comply with closure requirements under LAC 33:XI.Chapter 9, including applicable requirements for corrective action under LAC 33:XI.715.

3. Tank Upgrading Requirements. Metal tanks must be upgraded in accordance with Subsection A of this Section and meet one of the following requirements.

a. Internal Lining. A tank may be upgraded by internal lining if:

i. the lining is installed in accordance with the requirements of LAC 33:XI.507; and

ii. within 10 years after lining, and every five years thereafter, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications.

b. Cathodic Protection. A tank may be upgraded by cathodic protection if the cathodic protection system meets the requirements of Clauses B.1.b.ii, iii, and iv of this Section, and the integrity of the tank is ensured using one of the following methods.

i. The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes before the cathodic protection system is installed.

ii. The tank has been installed for less than 10 years and is monitored monthly for releases in accordance with LAC 33:XI.701.A.4-8.

iii. The tank has been installed for less than 10 years and is assessed for corrosion holes by conducting two tightness tests that meet the requirements of LAC 33:XI.701.A.3. The first tightness test must be conducted before the cathodic protection system is installed. The second tightness test must be conducted between three and six months after the first operation of the cathodic protection system.

iv. The tank is assessed for corrosion holes by a method that is determined by the department to prevent releases in a manner that is no less protective of human health and the environment than the methods specified in Clauses C.3.b.i-iii of this Section.

v. All procedures used to upgrade existing UST systems by cathodic protection shall be conducted in accordance with applicable requirements of the Louisiana Department of Transportation and Development, or its successor agency.

c. Internal Lining Combined with Cathodic Protection. A tank may be upgraded by both internal lining and cathodic protection if:

i. the lining is installed in accordance with the requirements of LAC 33:XI.507; and

ii. the cathodic protection system meets the requirements of Clauses B.1.b.ii, iii, and iv of this Section.

Note: Repealed.

4. Piping Upgrading Requirements. Metal piping that routinely contains regulated substances and is in contact with the ground or water must be cathodically protected and must meet the requirements of Clauses B.2.b.ii, iii, and iv of this Section.

Note: Repealed.

5. Spill and Overfill Prevention Equipment. To prevent spilling and overfilling associated with product transfer to the UST system, all existing UST systems must comply with the requirements for spill and overfill prevention equipment for new UST systems specified in Paragraph B.3 of this Section.

6. Reporting Requirements

a. The owner and operator must notify the Office of Environmental Compliance, Surveillance Division in writing at least 30 days before beginning a UST system upgrade.

b. An amended registration form (UST-REG-02) must be submitted to the Office of Environmental Services, Permits Division within 30 days after the UST system is

upgraded. The owner and operator must certify compliance with Subsection C of this Section on the amended registration form (UST-REG-02). Beginning January 20, 1992, the amended registration forms (UST-REG-01 and 02) shall include the name and department-issued certificate number of the individual exercising supervisory control over those steps in the upgrade that involve *repair-critical junctures* or *installation-critical junctures* (as defined in LAC 33:XI.1303) of a UST system.

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, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:728 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:475 (March 2002), amended by the Office of Environmental Assessment, LR 31:1066 (May 2005).

§305. Interim Prohibitions for Deferred UST Systems

A. The requirements in this Section apply to all UST systems deferred under LAC 33:XI.101.C.

B. No person may install a UST system listed in LAC 33:XI.101.C for the purpose of storing regulated substances unless the UST system (whether of single- or double-wall construction) meets the following requirements.

1. The UST system will prevent releases due to corrosion or structural failure for the operational life of the UST system.

2. The UST system is cathodically protected against corrosion, is constructed of noncorrodible material or of metal clad with a noncorrodible material, or is designed in a manner to prevent the release or threatened release of any stored substance.

3. The UST system is constructed or lined with material that is compatible with the stored substance.

C. Notwithstanding Subsection B of this Section, a UST system without corrosion protection may be installed at a site that a corrosion expert determines is not corrosive enough to cause the UST system to have a release due to corrosion during its operating life. Owners and operators must maintain records that demonstrate compliance with the requirements of this Subsection for the remaining life of the tank.

D. LAC 33:XI.599.Appendix A lists codes of practice developed by nationally-recognized associations or independent testing laboratories that shall be used to comply with these regulations.

Note: Repealed.

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, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), amended by the Office of Environmental Assessment, LR 31:1069 (May 2005).

Chapter 5. General Operating Requirements

§501. Spill and Overfill Control

A. LAC 33:XI.599.Appendix A lists codes of practice developed by nationally-recognized associations or independent testing laboratories that shall be used to comply with these regulations.

B. Owners and operators must ensure that releases due to spilling or overfilling do not occur. Before a transfer is made, the owner and operator must ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank and that the transfer operation is monitored constantly to prevent overfilling and spilling. Spill and overfill controls shall be conducted in accordance with Subsection A of this Section.

Note: Repealed.

C. Owners and operators must report, investigate, and clean up any spills and overfills, in accordance with LAC 33:XI.713.

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, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, LR 31:1069 (May 2005).

§503. Operation and Maintenance of Corrosion Protection

A. All owners and operators of metal UST systems with corrosion protection must comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the UST system is used to store regulated substances.

1. All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of external portions of the tank and piping that routinely contain regulated substances and are in contact with the ground or water.

2. All UST systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements.

a. Frequency. All cathodic protection systems must be tested within six months after installation and at least every three years thereafter.

b. Inspection Criteria. The criteria used to determine whether cathodic protection is adequate as required by this Section must be in accordance with LAC 33:XI.501.A.

Note: Repealed.

3. UST systems with impressed current cathodic protection systems must also be inspected every 60 days to ensure that the equipment is running properly.

B. For UST systems using cathodic protection, records of the operation of the cathodic protection must be maintained (in accordance with LAC 33:XI.509) to demonstrate compliance with the performance standards in this Section. These records must provide the following:

1. the results of the last three years of inspections required in Paragraph A.3 of this Section; and

2. the results of testing from the last two inspections required in Paragraph A.2 of this Section.

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, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, LR 31:1069 (May 2005).

§505. Compatibility

A. …

Note: Repealed.

B. Owners and operators storing alcohol blends shall do so in accordance with LAC 33:XI.501.A.

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, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, LR 31:1070 (May 2005).

§507. Repairs Allowed

A. Owners and operators of UST systems must ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs must meet the following requirements.

1. Except in emergencies, the owner and operator shall notify the department's Office of Environmental Compliance, Surveillance Division in advance of the necessity for conducting a repair to a UST system.

2. Repairs to UST systems must be properly conducted in accordance with LAC 33:XI.501.A. Beginning January 20, 1992, all owners and operators must ensure that the individual exercising supervisory control over *repair-critical junctures* (as defined in LAC 33:XI.1303) is certified in accordance with LAC 33:XI.Chapter 13.

Note: Repealed.

3. Repairs to fiberglass-reinforced plastic tanks may be made by the manufacturer's authorized representatives or in accordance with LAC 33:XI.501.A.

4. Metal pipe sections and fittings that have released product as a result of corrosion or other damage must be replaced. Fiberglass pipes and fittings must be repaired or replaced in accordance with the manufacturer's specifications.

5. Repaired tanks and piping must be tightness tested in accordance with LAC 33:XI.701.A.3 and B.2 within 30 days after the date that the repair is completed, except under the following circumstances:

a. the repaired tank is internally inspected in accordance with LAC 33:XI.501.A; or

b. the repaired portion of the UST system is monitored monthly for releases in accordance with a method specified in LAC 33:XI.701.A.4-8; or

c. another test method is used that has been given prior approval by the department after it determined the method to be no less protective of human health and the environment than those listed above.

6. Within six months following the repair of any cathodically protected UST system, the cathodic protection system must be tested in accordance with LAC 33:XI.503.A.2 and 3 to ensure that it is operating properly.

B. Owners and operators of UST systems must maintain records of each repair for the remaining operating life of the UST system that demonstrate compliance with the requirements of this Section.

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, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), amended by the Office of Environmental Assessment, LR 31:1070 (May 2005).

§509. Reporting and Recordkeeping

A. Reporting. Owners and operators must submit the following information to the department:

1. registration forms (UST-REG-01 and 02) for all UST systems (LAC 33:XI.301), including certification of installation and verification of installer certification for new UST systems, in accordance with LAC 33:XI.303.B.4.b;

2. - 5. …

B. Recordkeeping. Owners and operators must maintain the following information:

1. a corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used (LAC 33:XI.303.B.1.d and B.2.c);

2. documentation of operation of corrosion protection equipment (LAC 33:XI.503.A.4);

3. documentation of UST system repairs (LAC 33:XI.507.A.7);

4. documentation of recent compliance with release detection requirements (LAC 33:XI.705);

5. copies of the most current registration forms (UST-REG-01 and 02) filed with the department;

6. documentation of the type and construction of the tank, piping, leak detection equipment, and spill and overfill protection equipment; and

7. documentation of permanent closure, where applicable.

C. Availability and Maintenance of Records. Owners and operators must either keep the records required at the UST site and immediately available for the department's inspection, or keep them at a readily available alternative site and provide them to the department for inspection upon request.

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, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 18:728 (July 1992), amended by the Office of Environmental Assessment, LR 31:1070 (May 2005).

§599. Appendix A—Industry Codes and Standards

Appendix A—Industry Codes and Standards*	
Publication Company	**Codes and Standards**
API Standards	
API—American Petroleum Institute, 1220 L Street, N.W., Washington, DC 20005	API Recommended Practice 1007, "Loading and Unloading of MC306/DOT 406 Cargo Tank Motor Vehicles"
	API Recommended Practice 1604, "Closure of Underground Petroleum Storage Tanks"
	API Recommended Practice 1615, "Installation of Underground Petroleum Storage Systems"
	API Recommended Practice 1621, "Bulk Liquid Stock Control at Retail Outlets"
	API Recommended Practice 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations"
	API Recommended Practice 1627, "Storage and Handling of Gasoline-Methanol/Cosolvent Blends at Distribution Terminals and Service Stations"

Appendix A—Industry Codes and Standards*	
Publication Company	**Codes and Standards**
	API Publication 1628, "A Guide to the Assessment and Remediation of Underground Petroleum Releases"
	API Publication 1629, "Guide for Assessing and Remediating Petroleum Hydrocarbons in Soils"
	API Recommended Practice 1631, "Interior Lining of Underground Storage Tanks"
	API Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"
	API Recommended Practice 1635, "Management of Underground Petroleum Storage Systems at Marketing and Distribution Facilities" [*final edition, now out of print*]
	API Recommended Practice 2003, "Protection Against Ignitions Arising Out of Static, Lightning, and Stray Currents"
	API Publication 2005, "Service Station Safety"
	API Standard 2610, "Design, Construction, Operation, Maintenance, and Inspection of Terminal & Tank Facilities"
ASTM Standards	
ASTM (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West, Conshohocken, PA 19428-2959	ASTM E 1430, "Standard Guide for Using Release Detection Devices with Underground Storage Tanks"
	ASTM E 1526, "Standard Practice for Evaluating the Performance of Release Detection Systems for Underground Storage Tank Systems"
	ASTM E 1599, "Standard Guide for Corrective Action for Petroleum Releases"
	ASTM E 1739, "Standard Guide for Risk-Based Corrective Action Applied at Petroleum Release Sites"
	ASTM E 1912, "Standard Guide for Accelerated Site Characterization for Confirmed or Suspected Petroleum Releases"
	ASTM E 1943, "Standard Guide for Remediation of Ground Water by Natural Attenuation at Petroleum Release Sites"
	ASTM E 1990, "Standard Guide for Performing Evaluations of Underground Storage Tank Systems for Operational Conformance with 40 CFR, Part 280 Regulations"
FTPI Standards	
FTPI—Fiberglass Tank and Pipe Institute, 11150 S. Wilcrest Drive, Suite 101, Houston, TX 77099-4343	FPTPI Recommended Practice T-95-02, "Remanufacturing of Fiberglass Reinforced Underground Storage Tanks"
KWA Standards	
KWA—Ken Wilcox Associates, Inc., 1125 Valley Ridge Drive, Grain Valley, MO 64029	KWA, "Recommended Practice for Inspecting Buried Lined Steel Tanks Using a Video Camera"
NACE Standards	
NACE International (formerly the National Association of Corrosion Engineers), Box 218340, Houston, TX 77218-8340	NACE Standard RP 0169, "Recommended Practice: Control of External Corrosion on Underground or Submerged Metallic Piping Systems"

Appendix A—Industry Codes and Standards*	
Publication Company	**Codes and Standards**
	NACE Standard RP 0177, "Recommended Practice: Mitigation of Alternating Current and Lightning Effects on Metallic Structures and Corrosion Control Systems"
	NACE Standard RP 0178, "Recommended Practice: Design, Fabrication, and Surface Finish of Metal Tanks and Vessels to be Lined for Chemical Immersion Service"
	NACE Standard RP-0184, "Recommended Practice: Repair of Lining Systems"
	NACE Standard RP 0285, "Recommended Practice: Corrosion Control of Underground Storage Tank Systems by Cathodic Protection"
	NACE Standard RP0288, "Recommended Practice: Inspection of Linings on Steel and Concrete"
	NACE Test Method TM 0497, "Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems"
NFPA Standards	
NFPA—National Fire Protection Association, 1 Batterymarch Park, Box 9101, Quincy, MA 02269-9101	NFPA 30, "Flammable and Combustible Liquids Code"
	NFPA 30A, "Automotive and Marine Service Station Code"
	NFPA 326, "Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair"
	NFPA 329, "Recommended Practice for Handling Releases of Flammable and Combustible Liquids and Gases"
	NFPA 385, "Standard for Tank Vehicles for Flammable and Combustible Liquids"
NLPA Standards	
NLPA—National Leak Prevention Association, Box 1643, Boise, ID 83701	NLPA Standard 631, "Entry, Cleaning, Interior Inspection, Repair, and Lining of Underground Storage Tanks"
PEI Standards	
PEI—Petroleum Equipment Institute, Box 2380, Tulsa, OK 74101-2380	PEI RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems"
STI Standards	
STI—Steel Tank Institute, 570 Oakwood Road, Lake Zurich, IL 60047	STI R892, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems"
	STI-R922, "Specification for Permatank"
	STI-R-972, "Recommended Practice for the Installation of Supplemental Anodes for STI-P3 USTs"
	STI-P3, "STI-P3 Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks"
	STI-F894, "ACT-100 Specification for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks"
	STI-F961, "ACT-100-U Specification for External Corrosion Protection of Composite Steel Underground Storage Tanks"
UL Standards	
UL—Underwriters Laboratories Inc., 333 Pfingsten Road, Northbrook, IL 60062-2096	UL 58, "Standard for Safety: Steel Underground Tanks for Flammable and Combustible Liquids"

Appendix A—Industry Codes and Standards*	
Publication Company	**Codes and Standards**
	UL 971, "Standard for Safety: Non-Metallic Underground Piping for Flammable Liquids"
	UL 1316, "Standard for Safety: Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products"
	UL 1746, "Standard for Safety: External Corrosion Protection Systems for Steel Underground Storage Tanks"
* Industry codes and standards are copyrighted and are available only from the developing organizations. These codes and standards must be purchased directly from the developing organizations.	

AUTHORITY NOTE: Promulgated in accordance with R.S. 30: 2001 et seq., 2194, and 2194.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1070 (May 2005).

Chapter 7. Methods of Release Detection and Release Reporting, Investigation, Confirmation, and Response

§701. Methods of Release Detection

A. - A.1.f. …

g. Practices described in the American Petroleum Institute Publication 1621, "Recommended Practice for Bulk Liquid Stock Control at Retail Outlets," may be used, where applicable, as guidance in meeting the requirements of Paragraph A.1 of this Section.

Note: Repealed.

2. - 3. …

4. Automatic Tank Gauging (ATG)

a. Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements:

i. the automatic product level monitor test must be capable of detecting a 0.2-gallon-per-hour leak rate from any portion of the tank that routinely contains product; and

ii. inventory control (or another test of equivalent performance) must be conducted in accordance with the requirements of LAC 33:XI.701.A.1.

b. For ATG to be used as the sole method of release detection, the ATG equipment shall test the tank at least once per month in a manner that can detect a release of 0.2 gallon per hour from any portion of the UST system that routinely contains product with a probability of detection of at least 0.95 and a probability of false alarm of no greater than 0.05. The ATG system shall generate a hard copy of all monthly release detection data to include, at a minimum:

i. the time and the date of the test;

ii. the tank identification;

iii. the fuel volume in the tank at the time of the test; and

iv. a qualitative result either of "pass" or "fail."

5. - 5.c.ii. …

iii. The slotted portion of the RDD must be designed to prevent migration of soils or the filter pack into the RDD and to allow entry of the regulated substance on the water table into the RDD under both high and low groundwater conditions.

5.c.iv. - 6. …

a. For double-walled UST systems, the sampling or testing method must be capable of detecting a release through the inner wall in any portion of the tank that routinely contains product. The provisions outlined in the Steel Tank Institute's "Standard for Dual Wall Underground Storage Tanks" may be used as guidance for aspects of the design and construction of underground steel double-walled tanks.

Note: Repealed.

b. - c. …

7. Statistical Inventory Reconciliation (SIR)

a. The SIR method used must analyze inventory control records in a manner that can detect a release of 0.2 gallons per hour from any portion of the UST system that routinely contains product with a probability of detection of at least 0.95 and a probability of false alarm of no greater than 0.05.

b. The UST system owner or operator must receive a monthly report from the SIR provider/vendor that actually performs the SIR analysis within 15 days following the last day of the calendar month for which the analysis was performed. The SIR analysis report must include, at a minimum:

i. the name of the SIR provider/vender and the name and version of the SIR method used for analysis;

ii. the name of the company and individual who performed the analysis;

iii. the name and address of the facility at which the analysis was performed and a description of the UST system for which the analysis was performed;

iv. a quantitative statement, in gallons per hour, for each UST system monitored for the month analyzed, of the leak threshold, the minimum detectable leak rate, and the indicated leak rate; and

v. a quantitative statement of "pass," "fail," or "inconclusive" for each UST system monitored.

8. Other Methods. Any other type of release detection method, or combination of methods, can be used if it meets the following requirements.

a. The release detection method can detect a 0.2-gallon-per-hour leak rate or a release of 150 gallons within a month with a probability of detection of at least 0.95 and a probability of false alarm of no greater than 0.05.

b. The release-detection method has been approved by the Office of Environmental Compliance, Surveillance Division on the basis of a demonstration by the owner and operator that the method can detect a release as effectively as any of the methods allowed in Paragraphs A.3-8 of this Section. In comparing methods, the Office of Environmental Compliance, Surveillance Division shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner and operator must comply with any conditions imposed on its use by the Office of Environmental Compliance, Surveillance Division.

B. …

1. Automatic Line Leak Detectors. Methods that alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or by triggering an audible or visual alarm may be used only if they detect leaks of three gallons per hour at 10-pounds-per-square-inch line pressure within one hour. A test of the operation of the leak detector shall be conducted every 12 months in accordance with the manufacturer's requirements and also by simulating a release in order to determine if the system is fully operational.

2. …

3. Applicable Tank Methods. Any of the methods in Paragraphs A.5-8 of this Section may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.

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, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, LR 31:1072 (May 2005).

§703. Requirements for Use of Release Detection Methods

A. - B. …

1. Tanks. Tanks must be monitored at least every 30 days for releases using one of the methods listed in LAC 33:XI.701.A.4-8, except for the following.

a. UST systems that meet the performance standards in LAC 33:XI.303.B or C, and the monthly inventory control requirements in LAC 33:XI.701.A.1 or 2, may use tank tightness testing (conducted in accordance with LAC 33:XI.701.A.3) at least every five years until December 22, 1998, or until 10 years after the tank is installed or upgraded under LAC 33:XI.303.C.3, whichever is later.

b. UST systems that do not meet the performance standards in LAC 33:XI.303.B or C may use monthly inventory controls (conducted in accordance with LAC 33:XI.701.A.1 or 2), and tank tightness testing every 12 months (conducted in accordance with LAC 33:XI.701.A.3) until December 22, 1998, when the tank must be upgraded under LAC 33:XI.303.C or permanently closed under LAC 33:XI.905.

1.c. - 2.a.i. …

ii. have a line tightness test conducted every 12 months in accordance with LAC 33:XI.701.B.2, or have monthly monitoring conducted in accordance with LAC 33:XI.701.B.3.

2.b. - 2.b.iv. …

v. a method is used that allows compliance with Clauses B.2.b.ii-iv of this Section to be readily determined and verified.

C. - C.2. …

a. Secondary containment systems must be designed, constructed, and installed in accordance with LAC 33:V.4437 to:

i. - iii. …

Note: Repealed.

b. - e.iii. …

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, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), amended by the Office of Environmental Assessment, LR 31:1073 (May 2005).

§705. Release Detection Recordkeeping

A. All UST system owners and operators must maintain records in accordance with LAC 33:XI.509 demonstrating compliance with all applicable requirements of LAC 33:XI.701-703. These records must include the following.

1. All written performance claims pertaining to any release detection system used and documentation of the manner in which these claims have been justified or tested by the equipment manufacturer, installer, or third party independent testing laboratory must be maintained throughout the operational life of the release detection system.

2. The results of any sampling, testing, or monitoring must be maintained for at least three years, except that the results of tank tightness testing conducted in accordance with LAC 33:XI.701.A.3 must be retained until the next test is conducted.

3. Written documentation of all calibration, maintenance, and repair of release detection equipment used on-site must be maintained for at least three years after the servicing work is completed. Any schedules of required calibration and maintenance provided by the manufacturer of the release detection equipment must be retained for five years from the date of installation.

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, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, LR 31:1073 (May 2005).

§707. Reporting of Suspected Releases

A. All owners, operators, employees, agents, contractors, or assigns having knowledge of any of the conditions listed below shall notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923 within 24 hours after becoming aware of the occurrence or, if they have knowledge of an emergency condition, shall report it immediately in accordance with LAC 33:I.Chapter 39. Owners and operators of UST systems shall follow the procedures specified in LAC 33:XI.711 after discovery of any of the following conditions:

1. - 3.a.…

b. in the case of inventory control, the following month of data does not continue to indicate a loss;

4. monitoring results from the SIR method allowed under LAC 33:XI.701.A.7 indicate:

a. a UST system analysis report result of "fail"; or

b. a UST system analysis result of "inconclusive."

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, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), LR 30:1677 (August 2004), amended by the Office of Environmental Assessment, LR 31:1073 (May 2005).

Chapter 9. Out-of-Service UST Systems and Closure

§901. Applicability to Previously Closed UST Systems

A. The owner and operator of a UST system permanently closed before July 20, 1990, must assess the excavation zone and close the UST system in accordance with this Chapter if directed to do so by the department. The department shall direct that such closure be undertaken if releases from the UST may, in the judgment of the department, pose a current or potential threat to human health and the environment.

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, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, LR 31:1073 (May 2005).

§903. Temporary Closure

A. - B. …

1. leave vent lines open and functioning;

2. cap and secure all other lines, pumps, manways, and ancillary equipment; and

3. submit a completed copy of the registration form UST-REG-01 to the Office of Environmental Services, Permits Division indicating the dates the UST system was temporarily closed.

C. When a UST system is temporarily closed for more than six months, owners and operators must permanently close the UST system if it does not meet either the performance standards in LAC 33:XI.303.B for new UST systems or the upgrading requirements in LAC 33:XI.303.C.3-6, except that the spill and overfill equipment requirements do not have to be met.

D. When a UST system is temporarily closed for more than 24 months, owners and operators shall complete a site assessment in accordance with LAC 33:XI.907. The results of the assessment and documentation of compliance with the temporary closure requirements in Subsection A of this Section must be submitted in duplicate to the Office of Environmental Compliance, Surveillance Division within 60 days following the end of the 24-month temporary closure period.

E. A tank tightness test in accordance with LAC 33:XI.701.A.3 must be conducted within five days after a UST system that has been temporarily closed for three months or more is brought back into service.

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, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, LR 31:1074 (May 2005).

§905. Permanent Closure and Changes-in-Service

A. At least 30 days before beginning either permanent closure or a change-in-service under Subsections B, C, and D of this Section, owners and operators must notify the Office of Environmental Compliance, Surveillance Division of their intent to permanently close or make the change-in-service, unless such action is in response to corrective action.

1. Notification shall be made by:

a. completing the notification form UST-SURV-01; and

b. notifying the appropriate regional office of the Office of Environmental Compliance, Surveillance Division by mail or fax at least seven days prior to implementing the removal or change.

2. Beginning January 20, 1992, all owners and operators must ensure that an individual exercising supervisory control over *closure-critical junctures* (as defined in LAC 33:XI.1303) is certified in accordance with LAC 33:XI.Chapter 13. The assessment of the excavation zone required under LAC 33:XI.907 must be performed after the department is notified but before the permanent closure or change-in-service is completed.

B. To permanently close a UST, owners and operators must empty and clean the tank and all associated piping by removing all liquids and accumulated sludges. All tanks taken out of service permanently must also be either removed from the ground or filled with an inert solid material.

C. Continued use of a UST system to store a nonregulated substance is considered a change-in-service. Before a change-in-service, owners and operators must empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in accordance with LAC 33:XI.907.

D. Cleaning and closure procedures found in LAC 33:XI.599.Appendix A shall be used to comply with this Section.

Note: Repealed.

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, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000), amended by the Office of Environmental Assessment, LR 31:1074 (May 2005).

§907. Assessing the Site at Closure or Change-in-Service

A. Before permanent closure or a change-in-service is completed, owners and operators must measure for the presence of a release where contamination is most likely to be present at the UST site, utilizing the procedure approved by the department. In selecting sample types, sample locations, and measurement methods, owners and operators must consider the method of closure, the nature of the stored substance, the type of backfill, the depth to groundwater, and other factors appropriate for identifying the presence of a release. Results of this assessment must be submitted in duplicate to the Office of Environmental Compliance, Surveillance Division within 60 days following permanent closure or change in service. The assessment results shall include a site diagram indicating locations where samples were collected and a written statement specifying which USTs have been closed.

B. …

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, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 18:728 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000), amended by the Office of Environmental Assessment, LR 31:1074 (May 2005).

Chapter 13. Certification Requirements for Persons Who Install, Repair, or Close Underground Storage Tank Systems

§1301. Applicability

A. The requirements of this Chapter apply to persons engaged in critical junctures of a UST system. Certification is not required for those persons engaged in the process of relining an underground storage tank through the application of such materials as epoxy resins, nor does it include the

process of conducting a tightness test to establish the integrity of the tank, or installing or initial testing of UST system cathodic protection systems.

B. After January 20, 1992, no person shall conduct critical junctures of a UST system unless the person present at the site and exercising responsible supervisory control over the critical juncture is currently certified in accordance with this Chapter.

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, Underground Storage Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, LR 31:1074 (May 2005).

§1303. Definitions

A. The terms defined in this Section shall have the following meanings in this Chapter.

* * *

Closure-Critical Juncture those steps in the UST system closure process that are crucial to the prevention or detection of releases from that system. These steps are:

a. the process of cleaning/vapor removal;

b. all subsurface sample collection events; and

c. the removal or filling with inert material of the tank.

Critical Junctures those steps identified in *installation-critical junctures*, *repair-critical junctures*, or *closure-critical junctures* of UST systems, as defined in this Section.

Individual Certification certification in either installation/repair or closure of a UST system.

* * *

Installation-Critical Juncture those steps during the installation of a UST system that are crucial to the prevention or detection of releases from that system. These steps are:

a. - f. …

* * *

Renewal Fee biannual fee for installation/repair and/or closure certification.

* * *

Repair-Critical Juncture those steps in the UST system repair or modification process that are crucial to the prevention of releases from that system. These include the following:

a. - e. …

* * *

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 LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, LR 31:1075 (May 2005).

§1307. Certification Examinations

A. …

B. Source of Examination Questions. Questions used in the examination shall be derived from standards, instructions, and recommended practices listed in LAC 33:XI.599.Appendix A. Additional questions may be derived from regulations adopted by the department and from state and federal laws pertaining to UST system installation, repair, or closure.

C. Administration of Examinations

1. Examinations shall be conducted by personnel of the department or persons designated by the department.

2. Beginning after July 20, 1991, the department or persons designated by the department shall conduct written examinations at such times and locations within the state as the department may designate in order to identify persons as being qualified to receive UST certification.

C.3. - E. …

F. Revision, Security, and Administration of Certification Examinations. The department shall update examinations, preserve the security of examinations, and administer examinations.

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 LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, LR 31:1075 (May 2005).

§1311. Denial of Issuance or Renewal of a Certificate or Revocation of a Certificate

A. Should an applicant be denied issuance or renewal of a UST certificate or should a person's certificate be revoked, the reason or reasons for such denial or revocation shall be set forth in writing to the person by the administrative authority.

B. Possible reasons for denial of issuance or renewal of a certificate or for revocation of a certificate include the following:

1. failure to achieve a passing grade on the written examination described in LAC 33:XI.1307;

2. failure to submit required documentation;

3. previous revocation of a certificate held by the applicant;

4. evidence of fraud or deceit with respect to documentation required by and submitted to the department;

5. failure to present the identification card upon request of a department representative at a UST system installation, repair, or closure;

6. willful violation of the laws and regulations of Louisiana regarding UST system installation, repair, or closure; or

7. any other cause that, in the opinion of the administrative authority, constitutes adequate grounds for denial or revocation of a certificate.

C. Appeal of Denial or Revocation. A person who has been denied issuance or renewal of a certificate or who has had a certificate revoked may appeal the action in accordance with R.S. 30:2024(A).

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 LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, LR 31:1075 (May 2005).

§1313. UST Certification Board

A. Composition. The administrative authority shall appoint seven members of a body to be known as the UST Certification Board. Members of the board shall be as follows:

1. the administrative authority or his or her designee;

2. a representative of the Louisiana Oil Marketers' Association;

3. a representative of the Mid-Continent Oil and Gas Association;

4. two representatives from within the UST contractor community; and

5. two representative from the Louisiana Association of Petroleum Equipment Contractors.

B. - F. …

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 LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, LR 31:1075 (May 2005).

Wilbert F. Jordan, Jr.
Assistant Secretary

0505#028

RULE

Office of the Governor
Division of Administration
Facility Planning and Control

Capital Improvement Projects (LAC 34:III.Chapters 1 and 3)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the provisions of R.S. 39:121, The Division of Administration, Facility Planning and Control has amended Title 34, Government Contracts, Procurement and Property Control, Part III, Facility Planning and Control, Chapter 1, Capital Improvement Projects, Subchapter A, Procedure Manual. These Rule changes are the result of discussions between Facility Planning and Control and the architectural and engineering communities and represent a balance of increased services and increased compensation.

Title 34
GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL
Part III. Facility Planning and Control
Chapter 1. Capital Improvement Projects
Subchapter A. Procedure Manual

§101. Condition of the Contract

A. The Louisiana Capital Improvement Projects Procedure Manual for Design and Construction, 2004 Edition, herein referred to as the "procedure manual" or the "manual" and any amendments thereto, as published by Facility Planning and Control, shall be a part and condition of the contract between owner and designer, herein referred to as the "contract."

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:473 (September 1982), amended LR 11:849 (September 1985), LR 31:1076 (May 2005).

§103. Definitions

* * *

Consultants individuals or organizations engaged by the owner or the designer to provide professional consultant services complementing or supplementing the designer's services. As applicable, consultants shall be licensed to practice in accordance with laws of the state of Louisiana. The owner shall engage or have the designer furnish as part of the designer's services the services of consultants which are deemed necessary for the project. Normal consultants are architects, landscape architects, civil, structural, mechanical and electrical engineers, and others required to provide the services required or implied by the scope of the project, compensation for which is included in designer's basic fee. Special consultants are those, other than the above, which the owner may approve to perform special services and for which compensation will be in accordance with §109.C.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:473 (September 1982), amended LR 11:849 (September 1985), LR 31:1076 (May 2005).

§105. Owner-User Agency Responsibilities

A. - C.1.c. …

d. the time schedule outlining anticipated completion dates of designated phases as described in §113 hereinafter and the anticipated period of construction. The time schedule for planning phases shall commence with the date of the pre-design conference and shall continue until delivery of all construction documents to the owner sufficiently complete, coordinated and ready to bid. The number of calendar days in the time schedule shall take into account review periods agreed to between designer and owner. Documents will be considered to be "sufficiently complete, coordinated and ready for bid" only if the advertisement for bid can be issued with no further revisions to the documents except minor corrections and/or additions that can be made by addenda. Corrections and/or additions that require reissuing drawings must be approved by facility planning and control. Design time will not necessarily end at the receipt of the initial construction documents phase submittal to facility planning and control. Any unreasonable re-submittals required to complete the documents will be included in the design time;

e. …

2. The owner shall pay, in addition to the fee, the cost of site surveys described in §113.A.1.d. when deemed necessary by the designer and agreed to by the owner. These shall include, but not be limited to, a topographic survey prepared by a registered land surveyor and a geotechnical investigation prepared by a professional engineer.

D. The owner and the user agency shall examine all documents submitted by the designer and shall render decisions pertaining thereto, within the scheduled review period to avoid unreasonable delay in the progress of the designer's services.

E. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:473 (September 1982), amended LR 11:849 (September 1985), LR 31:1076 (May 2005).

§107. Construction Budget (AFC)

A. …

B. The designer shall be responsible for designing the project so that the base bid does not exceed the funds available for construction. The use of any alternate bids must

be approved by the owner. The owner will take into consideration abnormal escalation in construction costs that can be substantiated.

C. At the completion of the program completion phase, as stated hereinafter in §113, the designer shall determine whether the funds available for construction are realistic for the project when compared with the completed program. At this point, or at any other submissions of probable construction cost by the designer, if such probable construction cost is in excess of funds available (AFC), the owner shall have the option to:

1. instruct the user agency to collaborate with the designer to revise the program so that it will be within the funds available for construction; such program revisions shall be done without additional compensation to the designer, except as provided in §113.C.4, hereinafter;

C.2. - D.1.c. …

2. The lowest bona fide base bid is defined as the lowest base bid submitted by a licensed contractor, and not withdrawn in accordance with R.S. 38:2214, which complies in every respect with the bidding requirements of the contract documents.

E. When the lowest bona fide bid is below the amount available for construction and the designer has reduced the original program scope to reduce costs, and the lowest bona fide bid is less than 90 percent of the available funds for construction, the owner shall have the option to have the designer, without additional compensation, modify the construction documents as required to restore requirements of the program that were eliminated to reduce cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:474 (September 1982), amended LR 11:850 (September 1985), LR 31:1076 (May 2005).

§109. Compensation

A. Compensation to be paid to the designer for services and reimbursable expenses shall be as follows.

1.a. The fee for basic services, as described in §113 hereinafter, shall be calculated as the product of the fee percentage, adjusted for inflation, and the amount Available For Construction (AFC), adjusted for inflation. The fee percentage shall be computed by the formula.

FEE PERCENTAGE = _____46.10_____

Log (AFC (1975 BCI/Current BCI))

The fee shall be computed by the following formula:

FEE = FEE PERCENTAGE (AFC(1975 BCI/Current BCI)(Current CPI/1975 CPI)

Where "BCI" = Building Cost Index as published by Engineering News Record and "CPI" = Consumer Price Index as published by U.S. Department of Labor, Bureau of Labor Statistics.

b. Since the annual averages computed in December of the BCI and CPI are used, fee calculations are based upon the most current calendar year average of both indices. Should fee modifications occur during the course of the project, the BCI and CPI index factors used to calculate the original fee shall be used. If a project, through no fault of the Designer, is inactive for more than 24 months, the current BCI and CPI index factors shall be applied to the project once re-activated.

2. Compensation to be paid the designer may be appropriately modified by the owner prior to the selection of the designer for certain projects as follows.

a. Simple (.85 of basic compensation), to be determined by owner single use projects generally of utilitarian character without complication or detail. Buildings with a high degree of repetition may be included in this classification.

b. Average (1.00 of basic compensation), to be determined by owner projects of conventional character requiring normal attention to design and detail, including complete mechanical and electrical systems.

c. Medium Complex (1.1 of basic compensation), to be determined by owner projects of special character and/or function requiring an above average level of skill in design and containing more than ordinary requirements of scientific, mechanical and electrical equipment.

d. Complex (1.15 of basic compensation), to be determined by owner, projects of highly specialized design character and function requiring a high degree of design skill and requiring extensive, or special scientific, electronic, mechanical and electrical equipment and design expertise.

3. The owner may evaluate the scope, function, complexity, image and context of the project and adjust modifiers listed above.

a. A renovation factor of up to 1.25 of applied fees, to be established and set by the owner for each individual project, will be multiplied by the fee percentage to arrive at the fee for renovation projects, when determined by the owner to be justified. This fee shall include verifying existing conditions and/or any other additional work incidental to renovation projects. The renovation factor will be set in proportion to the additional work anticipated by the owner. The renovation factor will not be applied to re-roofing projects, except in unusual circumstances.

b. Full-Time Observation Services. An addition may be made to the basic fee for full time observation services during construction if determined by the owner to be warranted.

c. Duplicated work factor shall be subject to negotiation between the owner and designer on an individual project basis.

d. Multiple Contracts. If the owner determines that the best interest of the project is served by bidding and constructing the project under two or more separate contracts, the fee shall be established for each portion by application of the formula in Subsection A above.

e. If a project consists of more than one element, to be bid and constructed under one contract, then the AFC to be used in computing the fee under the formula in Subsection A above shall be the sum of the AFC's of each element.

f. Prefabricated Buildings. A fee to be established and set by the owner for each individual project, not to exceed that stated in Subsection A above.

B. Payment to the designer for additional services, defined in §113.C, shall be made on the basis of designer's direct personnel expense for performing such services multiplied by a factor of 3.0.

1. *Direct Personnel Expense* the normal, straight-time direct salaries of all the designer's personnel engaged in the project (technical but not clerical). This shall also include the direct salaries of designer's consultants involved in the additional services.

2. Routine change orders which involve a small amount of effort will not involve extra compensation. Before the designer prepares a change order for which he feels he is entitled to extra compensation due to the extra effort involved, he shall so notify the owner and secure owner's approval to proceed with the change order. When final payment is made to the designer, all such change orders will be reviewed by the owner and the designer's contract will be amended to reflect extra compensation for the change orders which the owner has determined merit additional fee. The fee will be computed by increasing the contract award by the amount of change orders that qualify for additional fee as described above.

3. Designer shall prepare change orders caused by errors or omissions of the designer without additional compensation.

a. The designer shall be financially responsible for costs that result from errors and/or omissions that exceed an acceptable level pursuant to the standard of care as described in §113.A. The owner shall participate in the cost of omissions to the extent of the value received by the owner.

Errors changes to the work caused by the designer for which the contractor is entitled to payment but for which the owner receives no value. Typically, these involve work that has been constructed and must be demolished and replaced.

Omissions changes to the work caused by the designer for which the contractor is entitled to payment for which the owner receives value. Typically these involve work that must be added to contract with little or no change to the work that has been constructed.

4. Preparation of documents required for change orders for any cause shall not be started without owner's prior written approval.

C. Reimbursable expenses are in addition to the compensation for basic and additional services and include actual expenditures made by the designer, his employees or his professional consultants in the interest of the project as directed and authorized by the owner in writing prior to their incurrence.

1. The designer shall pay for the cost of printing construction documents for the owner's and user agency's use and for regulatory agencies' approvals. The owner will reimburse the designer the cost of printing and distribution of all other sets of construction documents, over and above the amount of the deposits on same retained by the designer. The plan distribution and deposits will be as described in the "Instructions to Designers." This will include necessary sets for the contractor to construct the project. If the designer proposes and the owner agrees to an alternative form of document distribution, such as an electronic format, the designer will be reimbursed the direct cost of this method in lieu of the reimbursement described above.

D. Designer will be paid for prolonged contract administration and observation of construction should the contract time, as may be extended, be exceeded due to no fault of the designer and liquidated damages are recommended by the designer. The amount of such payment shall be computed by dividing 20 percent of the basic total fee by the number of days construction time, as extended, and multiplying by the number of days of liquidated damages recommended by the designer.

E. Liquidated Damages: When the designer exceeds the established time schedule, as described in §105.C.1.d, including any extensions of time approved by the owner, then the amount of the fee shall, as liquidated damages, be reduced by an amount as stated in the advertisement for designer's selection, for each working day past the original or extended date that the designer has not delivered all construction documents to the owner sufficiently complete, coordinated and ready to bid. Completeness will be determined by the owner as described in §111.A.2 and §113.A.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:474 (September 1982), amended LR 11:850 (September 1985), LR 31:1077 (May 2005).

§111. Payments to the Designer

A. - A.1.a. …

* * *

Construction documents phase	60 percent
Bidding and contract phase	65 percent

b. - c. …

i. Maximum of 1 percent (or $2,000 maximum) of the designer's fee may be withheld from construction close-out payment until completion of the one year warranty inspection period.

2. A partial payment for the construction documents phase shall be made when the designer has completed 100 percent of the construction documents and has submitted these to the owner, the user agency, and the other required statutory agencies and the owner determines by inventory check and conformity with §113 that all required documents have been submitted, and are sufficiently complete, coordinated and ready to bid, then the designer shall be entitled to a payment of 70 percent of the fee for the construction documents phase. Should the owner's approval of the construction documents not be issued within 45 days of submittal due to no fault of the designer, then the designer shall be paid an additional payment of 20 percent of the fee for the construction documents phase. The balance of the fee for this phase will be due upon the completion of review by owner and user, when corrections have been made, and when the project is approved for bidding. For projects with an AFC over $10 million, interim payments up to 50 percent of the fee for the construction document phase may be made by agreement between the owner and the designer.

3. If any phase or phase payment is delayed through no fault of the designer, the owner and designer may negotiate a partial payment.

4. The designer shall promptly pay consultants. By signing the professional design services invoice, the designer agrees that all consultants will be promptly paid those amounts due them out of the amount paid to the designer within 30 days. Upon receipt of reasonable evidence of the designer's failure to pay consultants' amounts due them, the

owner may withhold all or part of the designer's payment until he is satisfied that any amounts owed have been paid or otherwise settled.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:474 (September 1982), amended LR 11:851 (September 1985), LR 13:656 (November 1987), LR 31:1078 (May 2005).

§113. Designer's Services

A. Basic Services. The designer's basic services consist of the phases described below and include the normal services of the designer and normal complementary or supplementary services of his consultants, and any other services included in the contract. Review documents of each phase shall be submitted to the owner and to the user agency for their approval. In addition, for the construction documents phase, review documents shall be submitted to regulatory agencies designated by the owner or required by law, for their approvals. Designer shall not proceed to any subsequent phase until the requisite written approvals are received and until authorized by the owner in writing to so proceed. All statements of probable construction cost shall be adjusted to the anticipated bid date of the project. The designer shall be responsible for compliance with all applicable codes. All items not specifically covered by codes shall be designed in accordance with the standards established by accepted professional groups or by industry standards for that specific item of work. The designer shall be responsible, to a reasonable standard of care, for the professional quality, technical accuracy and the coordination of all designs, drawings, specifications and other services furnished under this contract. The designer shall without additional compensation, correct or revise any errors or deficiencies in the designs, drawings, specifications, and other services.

1. - 1.c. …

d. The designer shall obtain one or more proposals from registered land surveyors and geotechnical engineers when required for the project and recommend to the owner for his approval. The owner will contract directly for such services or may, with the agreement of the designer, include them in the designer's contract to be paid separately from the fee.

e. ...

2. Schematic Design Phase

a. Based on the approved completed program, funds available for construction, site location and time schedule, the designer shall prepare schematic design documents in such format and detail as required by the owner, consisting of drawings, outline specifications and other documents illustrating the general scope, scale and relationship of the project components for the written approval of the owner and the user agency. Detail submittal requirements are described in the instructions to designers.

b. …

c. An analysis of requirements of the Louisiana Code for State-Owned Buildings as they relate to this project shall be prepared by the designer and submitted for review and approval. It shall be the responsibility of the designer to verify (with facility planning and control, the state fire marshal and the Department of Health and Hospitals) the latest edition of the codes and standards in effect for use on a project.

3. Design Development Phase

a. Based on the approved schematic design documents and any adjustments authorized by the owner in the program or the funds available for construction, the designer shall prepare, for approval by the owner, design development documents consisting of drawings, expanded outline specifications based on the construction specifications institute (CSI) format, and other documents to fix and describe the size and character of the entire project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be required. Detail submittal requirements are described in the instructions to designers.

b. The designer shall submit to the owner and user agency a statement of probable construction cost based on the construction specification institute format. This shall have back-up material and data in such format and detail as required by owner to support each of the divisions.

3.c. - 4.a. …

i. Working Drawings. Dimensioned plans, elevations, sections, details and schedules of all architectural, landscaping, civil, structural, mechanical and electrical work in the project. Detail submittal requirements are described in the instructions to designers.

ii. Technical Specifications. The materials, processes or systems to be incorporated in the work, using the construction specifications institute format. State law prohibits the designer from closing specifications on any item in the specification except as provided for in R.S. 38:2290-2296 and in R.S. 38:2290.A. Any reason for closing specifications as provided for by law shall be brought to the attention of the owner in writing for review. Additional requirements for specifications are contained in the "Instructions to Designers" documents which will be furnished to the designer.

iii. Bidding and Construction Contract Forms. The owner will furnish to the designer policy requirements that the designer must include in his documents on the following: advertisement for bids, instructions to bidders, bid form, general conditions, supplementary general conditions, contract between owner and contractor, performance and payment bond, noncollusion affidavit, and other forms used by the owner. The designer shall consult with the owner to determine if a prevailing wage determination from the secretary of labor should be included in the documents and obtain one if necessary.

iv. All documents shall be complete and coordinated. The designer is responsible for coordination of all documents and all disciplines. The designer is responsible for coordination between all named products and performance criteria.

b. The designer shall submit to the owner and user agency an updated statement of probable construction cost based on the construction specifications institute format with back-up material as described in Paragraph 3 above.

4.c. - 5.b.i.(c). …

ii. plan deposits shall be in accordance with the owner's requirements and public bid law. Designers may recommend alternative methods of document distribution for

approval by facility planning and control. Alternative methods must:

(a). provide equal or better access by potential bidders than the conventional method described in the instructions to bidders. For exclusively electronic plan distribution, prospective plan holders must be able to download files in a reasonable time and print paper copies, or have them printed, at a reasonable cost;

(b). comply with all provisions of public bid law particularly with R.S. 38:2212.A (1) (e).

5.c. - 6.d. …

e. After the execution of the construction contract the owner will issue a notice to proceed to the contractor and will notify the designer to arrange for and conduct a pre-construction conference.

f. The designer and his principal consultants shall visit the project as often as necessary to become generally familiar with the progress and quality of the work and to determine if the work is proceeding in accordance with the contract documents. Such visits by the designer shall not be less than once per week when the work is in progress. The designer's principal consultants shall visit the project as often as necessary to become generally familiar with the progress and quality of the work related to their disciplines and to determine if that work is proceeding in general accordance with the contract documents. Such visits by the principal consultants shall not be less that an average of once per two weeks while the scope of their work is being performed. The designer shall not assume the role of his principal consultants in making site visits. In addition, project visits by both the designer and his principal consultants shall be made at key points in the construction process. On the basis of the designer's and principal consultants' on-site observations, he shall endeavor to guard the owner against defects and deficiencies in the work of the contractors. A written report of each visit to the site shall be prepared by the designer and each of his principal consultants and be transmitted to the owner, user agency, and contractor within seven calendar days after each visit.

g. The designer agrees that his designated representatives on the construction project shall be qualified by training and experience to make decisions and interpretations of the construction documents and such interpretations shall be binding upon the designer as if made by him. All such decisions shall be confirmed in writing immediately with copies to the owner and contractor, conditioned that such decisions and interpretations shall not modify adversely the requirements of the contract documents. If at any time, the owner determines that the designated representative does not meet these qualifications, the designer shall promptly replace the representative. This Paragraph does not apply to the designer's full-time project representative.

h. - l. …

m. The designer shall promptly review shop drawings, samples and other submissions of the contractor only for conformance with the design concept of the project and for compliance with the information given in the contract documents. The designer shall promptly respond to all requests for information from the contractor within a reasonable time period. The designer shall be held accountable as described in §109.B.3.

n. …

o. R.S. 38:2241.1 entitled "Acceptance of Governing Authority," defines the procedures to be followed in accepting a project and gives the owner the discretion to make acceptance on either full completion or substantial completion. Upon completion of the work, or on substantial completion or for partial occupancy, as requested by the owner, the designer shall conduct an inspection of the project with the owner, the user agency and the contractor to determine if the contractor's work is in general accordance with contract documents. The designer shall prepare a list of items ("punch-list") for correction or completion together with an assigned dollar value.

6.o.i. - 7.a.i. …

ii. two sets of record drawings (as-built) prepared by the designer, in an archival quality format for the owner and user agency files. The record drawings shall be prepared on the basis of information furnished by the contractor and the change orders and shall be reviewed with and approved by the contractor prior to submission. Designer shall require in the specifications that the contractor provide, as part of the operations and maintenance manual, all materials identified in the specifications ultimately installed on the project.

b. Designer shall review and approve completion of "punch-list" items remaining after acceptance and shall certify final payment to the contractor. If the designer does not find the work acceptable under the contract documents after the first onsite punch list review, the designer shall make one additional punch list review. If the work is still not acceptable, the designer, and each of the designer's principal consultants, shall be paid for their time at the project site, for each additional punch list review at the rate specified in the contract documents; to be withheld by the owner from the unpaid funds remaining in the construction contract sum.

c. Warranty Work. The designer shall be required to follow up on items to be corrected during the warranty period and shall arrange for and conduct an on site review of the project prior to expiration of the one-year warranty period and shall be required to inform the owner, user agency and contractor of any items to be corrected and shall inspect the project as required until the work is completed.

B. - C.5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:475 (September 1982), amended LR 11:851 (September 1985), LR 31:1079 (May 2005).

§127. Governing Law

A. The contract shall be governed by the laws of the state of Louisiana. The Nineteenth Judicial Court in and for the Parish of East Baton Rouge, State of Louisiana shall have sole jurisdiction in any action brought under this contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:478 (September 1982), amended LR 11:855 (September 1985), LR 31:1080 (May 2005).

§129. Other Conditions

A. Insurance. Prior to the signing of the contract between owner and the designer, the designer shall furnish to the owner proof of coverage for the following.

1. Insurance. Professional liability insurance shall be required as per the owner's requirements on a project by project basis. Refer to Exhibit B of the contract for the extent of coverage required. Insurance will be required at the time of contract execution between the owner and the designer. Proof of coverage will be required at that time. No deductible shall be in excess of 5 percent of the amount of the policy.

2. Comprehensive general liability with minimum limits of $500,000 per accident/occurrence.

3. Comprehensive automobile liability insurance with minimum limits of $300,000 per accident/occurrence.

4. The designer shall provide a certificate of insurance as proof of workmen's compensation coverage.

B. - C. …

D. Non-Binding Mediation

1. In an effort to resolve any conflicts that arise during or following the completion of the project, the owner and the designer agree that all disputes between them arising out of or relating to this agreement shall be submitted to non-binding mediation unless the parties mutually agree otherwise. If non-binding mediation is not successful, then arbitration is the only remedy available to all parties of the contract. Arbitration, mediation and/or any legal action resulting from this contract shall take place in East Baton Rouge Parish.

2. The owner and designer further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the Project and to require all independent contractors and consultants to likewise include providing for mediation as the primary method for dispute resolution between the parties to those agreements.

3. If this non-binding mediation fails to resolve any conflicts, then the following arbitration clause shall take effect. All claims, disputes and other matters arising from the contract shall, at the option of the owner, be decided by arbitration. To the extent possible, such arbitration proceedings shall be conducted in accordance with the construction industry association rules of the American Arbitration Association. Any such arbitration proceeding shall, at the option of the owner, be consolidated with or joined to other arbitration proceedings between the owner and other persons or entities under contract with the state for the construction, repair or alterations of the project in question.

E. Fault. Time delays, cost overruns, design inadequacies or other problems with performance of the designer may result in the designer being held "at fault." The owner shall determine if the designer is to be held at fault as provided in R.S. 38:2313.B.(5).

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:478 (September 1982), amended LR 11:855 (September 1985), LR 13:656 (November 1987), LR 31:1081 (Mazy 2005).

Chapter 3. Louisiana Building Code for State-Owned Buildings

§300. Preface

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:479 (September 1982), repealed LR 31:1081 (May 2005).

Subchapter A. Part IV of Chapter 8 of Title 40 of Louisiana Revised Statutes

§301. Declaration of Policy (R.S. 40:1721)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:479 (September 1982), amended LR 11:855 (September 1985), repealed LR 31:1081 (May 2005).

§303. Louisiana Building Code (R.S. 40:1722)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:479 (September 1982), amended LR 11:855 (September 1985), repealed LR 31:1081 (May 2005).

§305. Administration; Exceptions (R.S. 40:1723)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with RS 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:479 (September 1982), amended LR 11:856 (September 1985), repealed LR 31:1081 (May 2005).

§307. Building Permits and Occupancy Permits (R.S. 40:1724)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:479 (September 1982), amended LR 11:856 (September 1985), repealed LR 31:1081 (May 2005).

Jerry W. Jones
Director

0505#069

RULE

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

Intermediate Care Facilities for the Mentally Retarded
Standards for Payment
(LAC 50:II.10307)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:II.10307 under 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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the standards for payment for intermediate care facilities for the mentally retarded.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Medical Assistance
Subpart 3. Standards for Payment
Chapter 103. Standards for Payment for Intermediate Care Facilities for the Mentally Retarded
Subchapter B. Participation
§10307. Payments

A. - A.2. …

B. Payment Limitations

B.1.a. - b.i. …

ii. leave of absence. A temporary stay outside the ICF/MR provided for in the client's written Individual Habilitation Plan. A leave of absence will not exceed 45 days per fiscal year (July 1 through June 30), and will not exceed 30 consecutive days in any single occurrence. Certain leaves of absence will be excluded from the annual 45-day limit as long as the leave does not exceed the 30 consecutive day limit and is included in the written Individual Habilitation Plan. These exceptions are as follows:

(a). - (d). …

(e). official state holidays.

NOTE: Elopements and unauthorized absences under the individual habilitation plan count against allowable leave days. However, Title XIX eligibility is not affected if the absence does not exceed 30 consecutive days and if the ICF-MR has not discharged the client.

B.1.c. - C.3. …

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 Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:682 (April 1999), LR 31:1082 (May 2005).

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

0505#049

RULE

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

Mental Health Rehabilitation Program
(LAC 50:XV.Chapters 1-13)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby repeals all existing rules governing the administration of the Mental Health Rehabilitation Program promulgated prior to 2004 and adopts LAC 50:XV.Chapters 1-13 under 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 1. Mental Health Rehabilitation
Chapter 1. General Provisions
§101. Introduction

A. Mental health rehabilitation (MHR) services for adults with serious mental illness and children with emotional/behavior disorders are those services necessary to reduce the disability resulting from mental illness and to restore the individual to his/her best possible functioning level in the community. Services are provided outside of a mental institution on an as needed basis to assist the recipient in coping with the symptoms of his/her illness, thereby minimizing the disabling effects of mental illness.

B. All mental health rehabilitation services shall be delivered in accordance with federal and state laws and regulations, the provisions of this Subpart 1, the Medicaid MHR Provider Manual, and any other notices or directives issued by the department or the bureau. These services shall be delivered by practitioners operating within the scope of their license as required by the respective Louisiana Practice Acts. It is the responsibility of each provider to be knowledgeable regarding the policies and procedures governing MHR services and to be aware of all revisions issued by the department or the bureau.

C. The MHR provider is required to focus on a treatment plan and environment that reduces client dependency upon MHR services where the least amount of service(s) is/are required in the least restrictive environment.

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 31:1082 (May 2005).

§103. Definitions and Acronyms

APRN advanced practice/registered nurse.

BHSF Bureau Health Services Financing.

CARF Commission on Accreditation of Rehabilitation Facilities.

CEU continuing education unit (nurse's training).

CNS clinical nurse specialist.

COA Council on Accreditation.

Core Mental Health Disciplines academic training programs in psychiatry, psychology, social work, counseling and psychiatric nursing.

DHH Department of Health and Hospitals.

Governing Body includes:

1. the organizers, incorporators, shareholders and board of directors of a MHR provider; and

2. the principal licensed and professional employees who manage, oversee and administer the day-to-day operation of a MHR provider.

JCAHO Joint Commission on Accreditation of Healthcare Organizations.

LCSW licensed clinical social worker.

LMHP licensed mental health professional.

LPN licensed practical nurse.

MHP mental health professional.

MHR mental health rehabilitation.

MHRSIS Mental Health Rehabilitation Services Information System.

MHS mental health specialist.

OMH Office of Mental Health.

Overpayment any amount paid by BHSF to a MHR provider which exceeds the amount allowed for a service or services furnished under the Medicaid Act. The provider shall reimburse BHSF for overpayments without exception.

QIP Quality Improvement Program.

Recoupment the authority of BHSF to recover payments made for services that are subsequently determined, for any reason, not to qualify for reimbursement.

Repayment the obligation of the MHR provider to refund payments to BHSF for any claims that, for any reason, are subsequently determined not to qualify for reimbursement.

Service Area the restricted geographical area delineated by BHSF in which the MHR provider may offer services.

SPOE single point of entry.

SURS Surveillance and Utilization Review Section.

USPRA United States Psychiatric Rehabilitation Association.

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 31:1082 (May 2005).

§105. Prior Authorization

A. Every mental health rehabilitation service shall be prior authorized by the Bureau. Services provided without prior authorization will not be considered for reimbursement. There shall be no exceptions to the prior authorization requirement.

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 31:1083 (May 2005).

Chapter 3. Covered Services and Staffing Requirements

Subchapter A. Service Delivery

§301. Introduction

A. The MHR provider shall provide all mandatory services and these services shall not be subcontracted. The MHR provider may choose to provide the optional services, either in house or through a subcontractor. Should the provider choose to furnish optional services through a subcontract, they must ensure that the subcontractor meets all provider participation requirements to provide such services including, but not limited to, licensing and certification requirements.

B. Service Package. Each MHR provider shall have a policy wherein they agree to identify and either provide or contract services as identified in every individual service agreement. The provider shall be qualified to provide services, and the recipient shall be eligible to receive the services. The services for each individual shall be included in the 90-day MHR service agreement.

C. Children Services. There shall be family and/or legal guardian involvement throughout the planning and delivery of MHR services.

1. The child shall be served within the context of the family and not as an isolated unit. Services shall be appropriate for:

a. age;

b. development;

c. education; and

d. culture.

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 31:1083 (May 2005).

Subchapter B. Mandatory Services

§311. Assessment

A. An assessment is an integrated series of diagnostic and evaluation procedures conducted with the recipient and his/her significant other(s) to provide the basis for the development of an effective, comprehensive and individualized service agreement. It is an intensive clinical, psychosocial evaluation of a recipient's mental health conditions which results in an issuance of an Integrated Summary and specific service agreement recommendations. It may also be used to determine the recipient's level of need and medical necessity.

B. Staffing Requirements

1. An assessment must be completed by practitioners operating within the scope of their licenses as required by the respective Louisiana Practice Acts.

2. A licensed mental health professional (LMHP) shall:

a. develop, sign and date the Integrated Summary; and

b. sign and date the assessment.

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 31:1083 (May 2005).

§313. Service Planning

A. Service planning is the team process of developing the recipient's service agreement, reviewing progress toward the goals of the service agreement and modifying the service agreement as indicated. The service agreement is an individualized, structured, goal-oriented schedule of services developed jointly by the recipient and treatment team. Recipients must be actively involved in the planning process and have a major role in determining the direction of their service agreement. The service agreement must identify the goals, objectives, action strategies, and services which are based on the results of an assessment, indicated by an Integrated Summary, and agreed to by the adult recipient or the child recipient and their family.

B. Staffing Requirements. All credentialed staff may participate in service planning activities as indicated by their participation in service delivery to a recipient. At a minimum, the LMHP must attend the meeting and sign the service agreement. The psychiatrist must review and sign the service agreement.

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 31:1083 (May 2005).

§315. Medication Management

A. Medication management shall be provided pursuant to best practices to:

1. assess and monitor a recipient's status in relation to treatment with medication;

2. instruct the recipient, family, significant others or caregivers of the expected effects of therapeutic doses of medications; and

3. administer prescribed medication when ordered by the supervising physician as part of a mental health rehabilitation plan which is inclusive of additional rehabilitation services and supports.

B. Medication shall be administered face-to-face with the recipient and shall not be administered in a group setting.

C. Staffing Requirements. Medication management must be performed by practitioners operating within the scope of their licenses as required by the respective Louisiana Practice Acts.

1. An initial medication assessment must be performed by:

a. a psychiatrist (M.D. or D.O.); or

b. an advanced practice registered nurse (APRN) who is a clinical nurse specialist (CNS) in psychiatry.

2. Medication administration must be performed by:

a. a psychiatrist;

b. an APRN;

c. a registered nurse; or

d. a licensed practical nurse.

3. Medication monitoring must be performed by:

a. a psychiatrist;

b. an APRN; or

c. a registered nurse.

4. Medication education must be performed by:

a. a psychiatrist;

b. an APRN; or

c. registered nurse.

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 31:1083 (May 2005).

§317. Community Support

A. Community Support services is the provision of mental health rehabilitation services and supports necessary to assist the recipient in achieving and maintaining rehabilitative, resiliency and recovery goals.

B. Staffing Requirements. Community support may be provided by a:

1. LMHP;

2. mental health professional (MHP); or

3. mental health specialist (MHS).

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 31:1084 (May 2005).

§319. Group Counseling

A. Group counseling is a treatment modality using face-to-face verbal interaction between two to eight persons. It is a professional therapeutic intervention utilizing psychotherapy theory and techniques. The service is time limited and directed to the goals on the approved service agreement.

B. Staffing Requirements. Group counseling may be provided by a:

1. LMHP; or

2. MHP under the supervision of a LMHP.

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 31:1084 (May 2005).

§321. Individual Intervention/Supportive Counseling

A. Individual intervention and supportive counseling are verbal interactions between the counselor therapist and the person receiving services that are brief, face-to-face, structured and time limited. Individual intervention (child) and supportive counseling (adult) are services provided to eliminate the psychosocial barriers that impede the skills necessary to function in the community.

1. Individual intervention (children/adolescents) is a range of professionally delivered therapeutic strategies provided individually and face-to-face to the recipient for the purpose of rehabilitating and restoring him/her to an optimal level of functioning and to reduce the risk of a more restrictive treatment intervention.

2. Supportive counseling (adults) includes services provided to eliminate psychosocial barriers that impede the development/enhancement of skills necessary to function in the community.

B. Staffing Requirements. Individual intervention or supportive counseling must be provided by a:

1. LMHP; or

2. MHP under the supervision of a LMHP.

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 31:1084 (May 2005).

§323. Parent/Family Intervention (Counseling)

A. Parent/Family Intervention (Counseling) is a therapeutic intervention involving the recipient and one or more of his/her family members. The primary goal of the service is to help the recipient and family improve their overall functioning in the home, school, work and community settings.

B. Staffing Requirements. Parent/Family Intervention (Counseling) must be provided by a:

1. LMHP; or

2. MHP under the supervision of a LMHP.

C. Place of Service. Parent/Family Intervention (Counseling) may be provided in any of the following settings:

1. a recipient's home;

2. a MHR facility;

3. a school; or

4. other designated professional environments.

D. Service Exclusion. Parent/Family Intervention (Counseling) shall not be provided to children or adolescents who are in the custody of the Office of Community Services or the Office of Youth Services. This service may not be combined on a service agreement with Parent/Family Intervention (Intensive).

E. Clinical Exclusion. Parent/Family Intervention (Counseling) is not appropriate for MHR recipients for whom this is the only needed or requested service.

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 31:1084 (May 2005).

§325. Psychosocial Skills TrainingCGroup (Youth)

A. Psychosocial Skills Training Group (Youth) is a therapeutic, rehabilitative, skill building service for children and adolescents to increase and maintain competence in normal life activities and gain the skills necessary to allow them to remain in or return to their community. It is a time-limited organized service based on models incorporating psychosocial interventions.

B. Staffing Requirements

1. Psychosocial Skills Training Group (Youth) shall be provided under the supervision of a LMHP with a minimum of two years experience providing services to children, adolescents and their families. The services may be provided by a:

a. LMHP;

b. MHP; or

c. MHS.

2. Group size shall not exceed eight recipients for any single skill building activity.

C. Service Exclusions. Psychosocial Skills Training Group (Youth) shall not be provided to children or adolescents who are in the custody of the Office of Community Services or the Office of Youth Services. This service may not be combined on a service agreement with the following services:

1. Parent/Family Intervention (Intensive); or

2. Psychosocial Skills Training-Group (Adult).

D. Clinical Exclusion. The MHR provider shall not admit any recipient into this service whose presence would pose a documented health and safety risk to the recipient or to other recipients and for whom the provider cannot provide the necessary care.

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 31:1085 (May 2005).

Subchapter C. Optional Services

§335. Parent/Family Intervention (Intensive)

A. Parent/Family Intervention (Intensive) is a structured service involving the recipient and one or more of his/her family members. It is a time-limited, intensive family preservation intervention intended to stabilize the living arrangement, promote reunification, or prevent utilization of out of home therapeutic resources (i.e., psychiatric hospitalization, therapeutic foster care) for the recipient. These services focus on the family and are delivered primarily to children and adolescents in their home.

B. Staffing Requirements

1. Parent/family intervention (intensive) is provided by a team that includes the recipient, his/her family or significant others, and a minimum of the following staff members in each team (total of three staff per team):

a. one full-time team leader who is a LMHP with a minimum of three years experience working with children, adolescents and their families; and

b. two full-time MHPs; or

c. a full-time MHP and a full-time MHS.

2. Each team of three staff persons may not have a case load that exceeds 12 families at any given time. Staff to family ratio takes into consideration required evening and weekend coverage, crisis service needs, and geographical coverage.

3. Staff assigned to a Parent/Family Intervention (Intensive) team must be exclusive to this team and must not provide any other services outside of the team.

C. Service Exclusions. Parent/Family Intervention (Intensive) shall not be provided to children or adolescents who are in the custody of the Office of Community Services or the Office of Youth Services. This service may not be combined on a service agreement with the following services:

1. Community Support;

2. Psychosocial Skills Training-Group (Adult);

3. Psychosocial Skills Training-Group (Youth);

4. Individual Intervention/Supportive Counseling;

a. an exception may be considered for a recipient with unique needs.

5. Group Counseling; or

6. Parent/Family Intervention (Counseling).

D. Clinical Exclusion. Parent/Family Intervention (Intensive) is not appropriate for recipients whose families refuse to participate or to allow services in the home.

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 31:1085 (May 2005).

§337. Psychosocial Skills TrainingCGroup (Adult)

A. Psychosocial Skills Training Group (Adult) is a therapeutic, rehabilitative, skill building service for individuals to increase and maintain competence in normal life activities and gain the skills necessary to allow them to remain in or return to their community. It is designed to increase the recipient's independent functioning in his/her living environment through the integration of recovery and rehabilitation principles into the daily activities of the recipient. It is a time-limited organized program based on a psychosocial rehabilitation philosophy to assist persons with significant psychiatric disabilities, to increase their functioning to live successfully in the environments of their choice.

B. Staffing Requirements

1. All staff providing direct services shall have documented orientation to the psychosocial rehabilitation model being used in the program. This service shall be furnished under the supervision of a LMHP who is on site a minimum of 50 percent of the service operating hours. The supervising LMHP shall be certified by the United States Psychiatric Rehabilitation Services Association (USPRA) or must be certified by USPRA by March 31, 2006.

2. Psychosocial skills building (group) shall be provided by a:

a. LMHP;

b. MHP; or

c. MHS.

3. There must be a minimum staffing ratio of one direct service staff person for eight recipients at all times of active program participation.

4. Group size may not exceed 15 recipients for any single skill building activity.

C. Service Exclusions. Psychosocial Skills Training-Group (Adult) may not be combined on a service agreement with the following services:

1. Parent/Family Intervention (Intensive); or
2. Psychosocial Skills Training Group (Youth)

D. Clinical Exclusion. The MHR provider shall not admit any recipient into Psychosocial Skills Training Group (Adult) whose presence would pose a documented health and safety risk to the recipient or to other recipients and for whom the provider cannot provide the necessary care.

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 31:1085 (May 2005).

Chapter 5. Recipient Qualifications

§501. Target Population

A. In order to qualify for MHR services, a recipient must meet the definition for adults with serious mental illness or children and youth with emotional/behavioral disorders as promulgated by the Office of Mental Health (*Louisiana Register*, Volume 20, Number 9) and the medical necessity criteria for services.

B. When an individual is determined to qualify for the MHR Program, an initial assessment shall be completed and fully documented in the recipient's record no later than 30 days after the determination of qualification. Information in an assessment shall be based on current circumstances (within 30 days) and face-to-face interviews with the recipient, or if the recipient is a minor, the information shall be obtained from a parent or legal guardian.

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 31:1086 (May 2005).

Chapter 7. Provider Participation Requirements

Subchapter A. Certification and Enrollment

§703. Application

A. To be certified or recertified as a mental health rehabilitation provider requires that the provisions of this Subpart 1, the provider manual and the appropriate statutes are met. A prospective provider who elects to provide MHR services shall apply to the Bureau of Health Service Financing for certification. The prospective provider shall create and maintain documents to substantiate that the provider meets all prerequisites in order to qualify as a Medicaid provider of MHR services. The MHR provider shall have a separate Medicaid provider number for each location where it chooses to provide services.

B. A prospective MHR provider shall submit the following documents for certification:

1. a completed Form PE 50 and addendum;
2. a completed disclosure of ownership form;
3. direct deposit authorization form;
4. nonrefundable application fee of $500 paid by certified check to State of Louisiana, Department of Health and Hospitals;
5. the accreditation documentation as outlined in Subchapter B of this Chapter 7;
6. a document that identifies the applicant's licensed mental health professional (LMHP) and psychiatrist, including verification of current licensure. The LMHP identified must be an employee of the prospective MHR provider;
7. proof of the establishment and maintenance of a line of credit from a federally insured, licensed lending institution in an amount of at least $50,000 as proof of adequate finances. It is the MHR provider's responsibility to notify the bureau in the event that the financial institution cancels or reduces the upper credit limit:
   a. nonprofit agencies that have operated for five years or more and have an unqualified audit report for the most recent fiscal year prepared by a licensed certified public accountant, which reflects financial soundness of the nonprofit provider, are not required to meet this standard;
   b. governmental entities or organizations are exempt from this requirement;
8. a statement identifying the population to be served:
   NOTE: A change in the population group to be served cannot be made without prior written approval by BHSF.
   a. adults with serious mental illness; and/or
   b. children with a emotional/behavior disorder;
9. proof of the establishment and maintenance of a general liability and a professional liability insurance policy with at least $1,000,000 coverage under each policy. The certificates of insurance for these policies shall be in the name of the MHR provider and certificate holder shall be the Department of Health and Hospitals. The provider shall notify BHSF when coverage is terminated for any reason. Coverage shall be maintained continuously throughout the time services are provided and thereafter for a period of one year:
   a. governmental entities or organizations are exempt from this requirement;
10. identification of all the MHR provider's office locations;
11. proof of an adult day care license issued by the Department of Social Services or its successor when group psychosocial skills training for adults is offered by the MHR provider. All offices or other locations where services are provided, or intend to be provided, are required to be separately licensed and certified. All licenses and certificates shall be in the name of the MHR provider and shall contain the provider's correct name and address;
12. a comprehensive administrative policy and procedure manual that describes an administrative structure to provide MHR services including:
   a. the names, addresses, composition, duties and responsibilities of the governing body;
   b. policy governing creation and retention of administrative and personnel records;
   c. a policy to utilize the current MHRSIS (or its successor) system that includes accurate MHR provider staff and client information;
   d. written procedures for maintaining the security and the confidentiality of recipient records;
   e. initial and annual recipient orientation policy. The MHR provider shall adopt a procedure that requires each recipient to sign an acknowledgment form that verifies that the recipient was fully and completely informed of his/her rights, orally and in writing, and received a copy of the signed form. The policy shall include:
      i. a mission statement;
      ii. recipients' rights, including freedom of choice to select their MHR provider and right to confidentiality;

iii. the array and types of treatment services offered by the MHR provider;

iv. staff qualifications;

v. a statement of after hours access to services;

vi. crisis management procedures;

vii. complaint resolution procedures; and

viii. discharge planning procedures;

13. comprehensive training policy for all employees, volunteers, and students; and

14. an operations policy manual that includes a mission statement, program philosophy and goals for the MHR provider.

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 31:1086 (May 2005).

§705. Application and Site Reviews

A. A prospective MHR provider shall undergo one or more reviews by the BHSF before certification:

1. an application review;
2. a first site review; and if necessary
3. a second site review.

B. The BHSF will conduct a review of all application documents for compliance with MHR requirements. If the documentation is approved, the applicant will be notified and an appointment will be scheduled for a first site review of the prospective MHR provider's physical location. If the first site review is successful, the certification request will be approved and forwarded to Provider Enrollment for further processing.

C. If the application documentation furnished by the prospective MHR provider is not acceptable, a meeting will be scheduled to discuss the deficiencies. The applicant has 30 days to correct the documentation deficiencies and to request a site visit at their physical location.

1. If the prospective MHR provider requests a site visit in a timely manner, a site review of their physical location will be scheduled. At the onsite review, the BHSF will review the corrected documents and make an assessment of the physical location. If the prospective provider has corrected the application document deficiencies and the physical location is deemed acceptable and sufficient to operate as a mental health rehabilitation provider, the BHSF will approve the certification request and forward the necessary paperwork to Provider Enrollment for further processing.

2. If the prospective provider does not request a site visit within 30 days, the application will be rejected and the provider may not reapply for certification for one year from the date of the initial application review.

D. A second site review is necessary when a provider fails the first site review. The prospective provider will have 30 days from failure of the first site review to correct any deficiencies and to request the second site review.

1. If the prospective provider requests the second site review in a timely manner and the site review verifies that the applicant has corrected the deficiencies, and the location is deemed acceptable and sufficient to operate as a mental health rehabilitation provider, the certification request will be approved and sent to Provider Enrollment for further processing.

2. If the prospective provider has not corrected all deficiencies they will be denied certification and may not reapply for certification for one year from the date of the application review.

3. If the prospective provider does not request and schedule a second site review within 30 days, they may not reapply for certification for one year from the date of the application review.

E. A prospective provider that fails certification on its original or a subsequent application shall undergo the entire review process detailed above, if and when it reapplies for certification.

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 30:802 (April 2004), amended LR 31:1087 (May 2005).

§707. Provisional Certification

A. When the requirements for certification are fully and properly completed, the approved prospective provider will be issued a provisional certification. Thereafter, the MHR provider may be enrolled to participate in the Medicaid Program. A MHR provider may only be granted provisional certification one time. This provisional certification will continue for a period of one year.

B. Within one year of provisional certification, the MHR provider shall become accredited by one of the national accreditation organizations approved by BHSF. The provider shall have six months from the issuance of a provisional certification to make a formal application to an accrediting body for full accreditation. The MHR provider shall submit proof of its accreditation application to BHSF or its designee by certified mail prior to the end of the sixth month period after the issuance of provisional certification. If the provider does not provide proof of its application for accreditation by that date, the provisional certification shall be terminated.

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 31:1087 (May 2005).

§709. Failure to Achieve Certification

A. If the prospective MHR provider fails to meet any application or certification requirements, they shall not receive a provisional certification. The prospective provider has only one opportunity to achieve provisional certification.

B. There will be an immediate loss of certification if at any time, the enrolled MHR provider fails to obtain or maintain certification requirements and accreditation status. The provider may not reapply for certification for one year following the date of loss of certification.

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 31:1087 (May 2005).

§711. Certification and Recertification

A. Certification. The MHR provider will be fully certified upon achievement of full accreditation.

B. Recertification. Each certified provider shall apply for recertification annually. The application must be submitted at least 90 days prior to expiration of the MHR provider's certification.

C. Failure to Recertify. If a provider fails to meet all requirements for recertification, he/she will receive a written notice identifying the deficiencies. The MHR provider must correct these deficiencies within 60 days from the date of the notice of the deficiencies. If the deficiencies are not corrected within this 60-day period, the provider's certification will be terminated.

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 31:1087 (May 2005).

Subchapter B. Accreditation

§719. Accreditation

A. Currently enrolled and prospective providers of mental health rehabilitation services shall be accredited by a national accreditation organization. The department shall only accept accreditation from the following national organizations for the purposes of enrolling a provider into the Mental Health Rehabilitation (MHR) Program:

1. the Council on Accreditation (COA);
2. the Commission on Accreditation of Rehabilitation Facilities (CARF); or
3. the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

B. Current providers shall provide documentation of accreditation prior to March 31, 2006 as a condition of ongoing enrollment as a MHR provider.

C. Prospective providers shall meet the established provider participation requirements. In addition, prospective providers shall be required to submit proof of a request for accreditation from a national accreditation organization within six months of enrollment in the MHR program and must be fully accredited within 12 months of submitting the application for enrollment. Providers that do not submit such proof or are not accredited within 12 months shall be immediately terminated from the MHR program.

D. All enrolled providers of mental health rehabilitation services shall maintain accreditation status. Denial or loss of accreditation status, or any negative change in accreditation status, shall be reported to the department in writing within five working days of receiving the notice from the national accreditation organization. The written notification shall include information detailing:

1. the provider's denial or loss of accreditation status;
2. any negative change in accreditation status;
3. the steps and timeframes, if applicable, the accreditation organization is requiring from that provider to maintain accreditation.

E. If at any time, a MHR provider loses accreditation, an automatic loss of certification will occur. This loss of certification is immediate upon loss of accreditation.

F. Failure to notify the department of denial or loss of accreditation status, or any negative change in accreditation status may result in sanctions to the mental health rehabilitation agency.

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 31:1088 (May 2005).

Subchapter C. Provider Responsibilities

§731. General Provisions

A. Providers shall assume full responsibility for the delivery of all services, including those delivered through contracts, subcontracts, or consultant agreements. The MHR provider shall ensure that services provided by contractors, subcontractors and consultants conform to all federal and state regulations regarding delivery and documentation of services and staff qualifications.

1. The MHR provider shall require that each contracted person or entity sign an agreement to cooperate with BHSF in regard to the monitoring of all service related activities.

B. The MHR provider shall immediately report any suspected or known violations of any state or federal criminal law to BHSF.

C. The MHR provider must establish regular business office hours for all business locations. Business locations must be fully operational at least eight hours a day, five days a week between the hours of 7 a.m. and 7 p.m.

1. A MHR provider is fully operational when the provider:

a. has met all the requirements for and becomes certified to offer mental health rehabilitation services;

b. has at least five active recipients at the time of any monitoring review, other than the initial application review;

c. is capable of accepting referrals at any time during regular business hours;

d. retains adequate staff to assess, process and manage the needs of current recipients;

e. has the required designated staff on site (at each location) during business hours; and

f. is immediately available to its recipients and BHSF by telecommunications 24 hours per day.

2. Every MHR provider location where services are provided shall be established with the intent to:

a. promote growth and development, client confidentiality, and safety. Each office or treatment area shall contain office equipment and furnishings requisite to providing MHR services including, but not limited to, computers, facsimile machines, telephones and lockable file cabinets. Offices and treatment areas shall be located in a separate building from the residence of the MHR provider's owner.

3. The MHR provider accepts full responsibility to ensure that its office locations meet all applicable federal, state and local licensing requirements. The transferring of licenses and certifications to new locations is strictly prohibited. It is also the responsibility of the MHR provider to immediately notify BHSF of any office relocation or change of address and to obtain a new certification and license (if applicable).

D. Each MHR provider shall maintain written procedures and implement all required policies and procedures immediately upon acceptance of recipients for services.

E. The MHR provider shall develop a policy and procedure for hospitalization that is in conformity with the single point of entry (SPOE) policy and procedure.

F. The MHR provider shall develop a quality improvement procedure (QIP) plan as outlined in the current MHR provider manual. It should address all aspects of the MHR provider operation.

G. As the result of a monitoring review, the MHR provider may be given a written notice of deficiencies and shall submit a written corrective action plan *to* BHSF within 10 days from receipt of the notice from the department. If the MHR provider fails to submit a corrective action plan within 10 days from the receipt of the notice, sanctions may be imposed against the MHR provider.

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 31:1088 (May 2005).

§733. Crisis Management

A. The MHR provider shall develop and implement a crisis management plan for emergencies. A crisis management plan offers support, services and treatments necessary to provide integrated crisis response, crisis stabilization interventions and crisis prevention activities. Crisis management shall be available on an emergency basis 24 hours a day, seven days a week. The plan shall include a "crisis de-escalation" section. Every effort shall be made at the outset of a crisis to de-escalate the crisis in order to preclude more severe measures, including hospitalization. De-escalation should always be attempted first.

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 31:1089 (May 2005).

§735. Orientation and Training

A. Orientation and training shall be provided to all employees, volunteers, and students. This orientation should be comprised of no less than five contact hours and may be considered as part of the overall requirement of 10 hours orientation.

1. The MHR provider shall develop, implement and maintain an orientation and ongoing training policy that conforms to the standards in the MHR provider manual. All MHR employees, volunteers, and students must receive orientation and training prior to providing services.

2. All orientation and training shall be documented in the employee's personnel record. The documentation shall include the date, title, class time(s), name and credentials of all trainers, and a dated, original signature of the trainee.

3. MHR provider staff shall attend all required training conducted by BHSF or its designee.

4. Initial and ongoing training shall occur on a routine basis to ensure that the staff and trainees demonstrate competency in the areas identified in the MHR provider manual. Staff competency is evidenced by the staff person's ability to describe and apply the information obtained in orientation and training. Ongoing training shall also be offered in response to service delivery issues identified through quality improvement activities.

5. Prior to handling or managing crisis calls any unlicensed person employed by the MHR provider shall have at least six hours of documented training in crisis intervention management through a recognized training curriculum or at least one year of documented experience providing direct crisis management.

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 31:1089 (May 2005).

§737. Staffing Qualifications

A. MHR services shall be provided by one or more of the following staff.

1. Licensed Mental Health Professional (LMHP*)*. The LMHP is a person who has a graduate degree in a mental health-related field from an accredited institution and is licensed to practice in the state of Louisiana by the applicable professional board of examiners.

a. Mental Health-Related Field. In order to qualify as a mental health-related field, an academic program must have curriculum content in which at least 70 percent of the required courses for the major field of study are based upon the core mental health disciplines.

b. In order to be considered to be a LMHP, a licensed professional counselor (LPC) must have two years post-masters experience in mental health.

c. Mental Health Nurse. The mental health nurse is a registered nurse who is licensed in the State of Louisiana by the Board of Nursing. A registered nurse must meet the following educational and experience requirements in order to be considered to be a LMHP. A registered nurse must:

i. be a graduate of an accredited program in psychiatric mental health nursing with two years of post-master's supervised experience in the delivery of mental health services; or

ii. have a master's degree in nursing or a master's degree in a mental health-related field with two years of supervised post master's experience in the delivery of mental health services; or

NOTE: Supervised experience is experience in mental health services delivery acquired while working under the formal supervision of a LMHP.

iii. have an associate or bachelor's degree; and

iv. one year experience as a psychiatric nurse which must have occurred no more than five years from date of employment or contract with the MHR provider; or

v. six CEUs regarding the use of psychotropic medications, including atypicals, prior to provision of direct service to MHR recipients.

2. A practical nurse licensed by the Louisiana Board of Practical Nurse Examiners can perform medication administration if he/she has:

a. one year of experience as a psychiatric nurse which shall have occurred no more than five years from date of employment/contract with the MHR provider; or

b. six CEUs regarding the use of psychotropic medications, including atypicals, prior to provision of direct service to any recipient.

NOTE: Every licensed practical nurse and registered nurse providing MHR services shall have documented evidence of five CEUs annually that are specifically related to behavioral health and medication management issues.

3. Mental Health Professional (MHP). The MHP is an individual who has the following qualifications:

a. a master's degree in a mental health-related field, and

b. a minimum of 15 hours of graduate-level course work and/or practicum in applied intervention strategies/methods designed to address behavioral, emotional and mental disorders as a part of, or in addition to, the master's degree.

NOTE: The MHP must be an employee of the MHR provider and work under the supervision of a LMHP.

4. Mental Health Specialist (MHS). The MHS is an individual who meets one or more of the following criteria:

a. a bachelor's degree in a mental health related field; or

b. a bachelor's degree, enrolled in college and pursuing a graduate degree in a mental health-related field, and have completed at least two courses in that identified field; or

c. a high school diploma or a GED, and at least four years experience providing direct services in a mental health, physical health, social services, education or corrections setting.

NOTE: The MHS must be an employee of the MHR provider and work under the supervision of a LMHP.

5. Psychiatrist. A psychiatrist (M.D. or D.O.) is a licensed medical doctor who is board-certified and authorized to practice psychiatry in Louisiana. Each MHR provider shall implement and maintain a contract with a psychiatrist(s) to provide consultation and/or services on site as medically necessary.

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 31:1089 (May 2005).

§739. Clinical Supervision

A. Every unlicensed MHR employee providing direct clinical services shall receive continuing direct and documented clinical supervision from a licensed mental health professional. Supervision shall be carried out by the LMHP who is directly responsible for the recipient. Documentation of supervision shall be noted in the employee's personnel record.

B. Non-LMHP staff shall receive face-to-face supervision and observation for a minimum of two hours each week for the first three months of employment while they are providing eligible services and for at least one hour per month thereafter. This policy shall not supersede any professional practices act. The policy shall cover supervision and observation and shall be documented in the employee's supervision record.

C. Supervision shall occur on a routine basis to ensure that the MHR staff demonstrates the following competencies:

1. provision of services appropriate to the needs of the individual;

2. service delivery specific to the individual service plan;

3. provision of assistance to recipients in order to meet individual goals;

4. the incorporation of recovery/resiliency and rehabilitation in all aspects of service delivery;

5. treatment effectiveness;

6. assessment of progress;

7. indications that the unlicensed person has reported significant issues since the last supervision session; and

8. feedback from the licensed person that indicates that they are actively directing the case.

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 31:1090 (May 2005).

Subchapter D. Records

§755. Recipient Records

A. The MHR provider shall create and maintain a continuing chronological record on each recipient. Original files shall be kept at the office in which services are provided. The record shall document each service contact and each service provided to the recipient.

B. This record, at a minimum, shall contain:

1. the target population eligibility determination;

2. the initial recipient assessment;

3. the proposed service agreement;

4. documentation of prior authorization for each service;

5. the discharge plan; and

6. clinical documentation sufficient to substantiate any and all claim(s) for reimbursement.

C. The recipient record shall be current and available at all times for review and copying by BHSF. It shall conform to any geographical limitations/restrictions established for the delivery of services.

D. Service Documentation. Documentation shall be maintained to verify that services are in conformity with BHSF policy.

E. The MHR provider shall develop and implement a policy that requires a written discharge plan be currently maintained in each recipient record. The plan shall be developed within 90 days of authorization of services by BHSF. The discharge plan shall be developed in accordance with the requirements outlined in the MHR provider manual.

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 31:1090 (May 2005).

§757. Personnel Records

A. A complete personnel records creation and retention policy shall be developed, implemented and maintained by the MHR provider. The MHR provider shall maintain documentation and verification of all relevant information necessary to assess qualifications for all staff, volunteers and consultants including:

1. employment verification. Records of employment verification shall be maintained and adhere to the criteria specified in the MHR Provider Manual;

2. education verification. Education documents, including diplomas, degrees and certified transcripts shall be maintained on file. Résumés and documentation of qualifications for the psychiatrist and LMHPs, including documentation of current licensure and malpractice insurance, shall be kept on file;

3. criminal background checks. There shall be documentation verifying that a criminal background check was conducted on all employees prior to employment. If the MHR provider offers services to children and adolescents, it shall have background checks performed as required by R.S. 15:587.1 and R.S. 15:587.3. The MHR provider shall not

hire an individual with a record as a sex offender or permit these individuals to work for the provider;

4. drug testing. All prospective employees who apply to work shall be subject to a drug test for illegal drug use. The drug test shall be administered after the date of the employment interview and before an offer of employment is made. If a prospective employee tests positive for illegal drug use, the MHR provider shall not hire the individual. The MHR provider shall have a drug testing policy that provides for the random drug testing of employees and a written plan to handle employees who test positive for illegal drug use, whether the usage occurs at work or during off duty hours. This documentation shall be maintained in the employee's personnel record.

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 31:1090 (May 2005).

Chapter 9. Reimbursement

§901. Reimbursement Methodology

A. Reimbursement for mental health rehabilitation services shall be a flat fee for each covered service provided to a qualified recipient. Reimbursement shall be determined in accordance with the Mental Health Rehabilitation Services fee schedule and shall be applicable statewide to all MHR providers.

B. The reimbursement methodology is based on a comparative survey of rates paid in several other states for similar behavioral health services with an adjustment made for economic factors in Louisiana.

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 31:1091 (May 2005).

Chapter 11. Sanctions

§1101. Grounds for Sanctions

A. The following are grounds for sanctioning of a Mental Health Rehabilitation provider:

1. failure to comply with any and all certification, administrative, accreditation, training or operational requirements at any time;

2. failure to provide the full range of services specified in the recipient's service agreement;

3. failure to uphold recipients' rights when violations may or could result in harm or injury;

4. failure to notify proper authorities of all suspected cases of neglect, criminal activity, or mental or physical abuse which could potentially cause, or actually causes harm to the patient;

5. failure to maintain adequate qualified staff to provide necessary services;

6. failure to adequately document that services that were billed were actually performed;

7. failure of a MHR provider's subcontractors to meet all required standards;

8. failure to fully cooperate with a DHH survey or investigation including, but not limited to, failure to allow DHH staff entry to the MHR provider's or subcontractor's offices or denial of access to any requested records during any survey or investigation;

9. failure to comply with all reporting requirements in a timely manner;

10. failure to provide documentation that verifies compliance with any requirement as set forth in this Subpart 1;

11. failure to comply with any or all federal or state regulations or laws applicable to either the Mental Health Rehabilitation Program or the Medical Assistance Program;

12. failure to protect recipients from harmful actions of a MHR provider's employees or subcontractors including, but not limited to:

a. health and safety;
b. coercion;
c. threat;
d. intimidation;
e. solicitation; or
f. harassment;

13. failure to remain fully operational at all times for any reason other than a natural disaster;

14. a substantiated pattern of consistent complaints filed against a MHR provider, within a one-year period;

15. a false statement of a material fact knowingly (or with reason to know) made by an owner or staff person of the MHR provider in the following areas:

a. an application for enrollment;
b. data forms;
c. a recipient's record;
d. any matter under investigation by the department; or
e. certification/recertification, or the accreditation process;

16. if a MHR provider uses false, fraudulent or misleading advertising;

17. failure to disclose a conviction for a criminal offense by a person who with ownership or controlling interest in the provider agency, or by a person who is an agent or managing employee of the MHR provider; or

18. if the facts as determined by the department indicates a failure to provide optimum care in accordance with current standards of practice.

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 31:1091 (May 2005).

§1103. Applicable Sanctions

A. The following sanctions may be applied to any MHR provider, independently, consecutively and/or collectively. These sanctions may be imposed in addition to those sanctions cited in the Surveillance and Utilization Systems rule, LAC 50:I.Chapter 41 (*Louisiana Register*, Volume 29, Number 4).

1. The MHR provider may be terminated as a MHR provider and all existing authorizations may be canceled. Terminated agencies, including all of their owners, officers, or directors will not be allowed to reapply for certification as a MHR provider for a period of up to five years.

2. Payments for services rendered may be suspended or withheld until program compliance is verified.

3. Requests for authorization extensions may be denied.

4. The MHR provider's current recipients shall be transferred to another MHR provider if the bureau

determines that recipient health and safety are compromised. Recipients have freedom of choice regarding the selection of service providers.

5. The MHR provider and/or the staff may be required to complete education and training in all aspects of MHR policy and billing procedures, including training relevant to providing quality MHR services.

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 31:1091 (May 2005).

Chapter 13. Appeals

§1301. Appeal Procedure

A. A MHR provider that contests any adverse action taken by the BHSF may appeal such action by submitting a written request for appeal to the department's Bureau of Appeals.

B. The appeal request must be received by the department's Bureau of Appeals within 30 days of the MHR provider's receipt of the written notification of the department's action. The appeal request must specify, in detail, the reasons for the appeal and state the reasons why the MHR provider contends that it is aggrieved by the department's action.

C. Sanctions in the form of a termination based on fraud and abuse or health and safety shall take effect immediately upon notice by the department.

D. Except in cases involving health and safety or program integrity issues where fraud or abuse is at issue, a sanctioned MHR provider who has timely filed an appeal shall be allowed to accept new clients during the appeals process unless the appeal is delayed beyond 90 days due to action on the part of the MHR provider. If the appeal is delayed beyond 90 days due to action on the part of the MHR provider, the provider may be prohibited from taking on new clients until a ruling on the appeal has been issued.

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 31:1092 (May 2005).

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

0505#048

RULE

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

Urine Drug Screening Laboratories

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby repeals the following Rules as authorized by R.S. 49:1005. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the November 20, 1991, February 20, 1992 and March 20, 1994 Rules governing the licensing and regulation of urine drug screening laboratories.

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

0505#050

RULE

Department of Insurance
Office of the Commissioner

Regulation Number 83 Domestic Insurer's Use of Custodial Agreements and the Use of Clearing Corporations (LAC 37:XIII.Chapter 105)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Insurance hereby adopts Regulation 83 relating to a domestic insurer's use of Custodial Agreements and Clearing Corporations in the safekeeping of its security deposits. This Regulation will become effective upon publication in the May 2005 *Louisiana Register*. This action complies with the statutory law administered by the Department of Insurance.

Title 37
INSURANCE
Part XIII. Regulations

Chapter 105. Regulation Number 83—Domestic Insurer's Use of Custodial Agreements and the Use of Clearing Corporations

§10501. Definitions

A. When used in this regulation, the term:

Agent a national bank, state bank, trust company or broker/dealer that maintains an account in its name in a clearing corporation or that is a member of the Federal Reserve System and through which a custodian participates in a clearing corporation, including the Treasury/Reserve Automated Debt Entry Securities System (TRADES) or Treasury Direct systems, except that with respect to securities issued by institutions organized or existing under the laws of a foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, *agent* may include a corporation that is organized or existing under the laws of a foreign country and that is legally qualified under those laws to accept custody of securities.

Clearing Corporation a corporation, as defined in Section 8-102(a)(5) of the Uniform Commercial Code, that is organized for the purpose of effecting transactions in securities by computerized book-entry, except that with respect to securities issued by institutions organized or existing under the laws of a foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein,

clearing corporation may include a corporation that is organized or existing under the laws of a foreign country and which is legally qualified under those laws to effect transactions in securities by computerized book-entry. Clearing corporation also includes "Treasury/Reserve Automated Debt Entry Securities System" and "Treasury Direct" book-entry securities systems established pursuant to 31 U.S.C. §3100 et seq., 12 U.S.C. pt. 391 and 5 U.S.C. pt. 301.

Custodian

a. a national bank, state bank or trust company that shall at all times during which it acts as a custodian pursuant to this regulation be no less than adequately capitalized as determined by the standards adopted by United States banking regulators and that is regulated by either state banking laws or is a member of the Federal Reserve System and that is legally qualified to accept custody of securities in accordance with the standards set forth below, except that with respect to securities issued by institutions organized or existing under the laws of a foreign country, or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, *custodian* may include a bank or trust company incorporated or organized under the laws of a country other than the United States that is regulated as such by that country's government or an agency thereof that shall at all times during which it acts as a custodian pursuant to this regulation be no less than adequately capitalized as determined by the standards adopted by international banking authorities and that is legally qualified to accept custody of securities; or

b. a broker/dealer that shall be a member of the National Association of Security Dealers, registered with and subject to jurisdiction of the Securities and Exchange Commission, maintains membership in the Securities Investor Protection Corporation, has an agency office in this state and has a tangible net worth equal to or greater than $250,000,000.

Custodied Securities securities held by the custodian or its agent or in a clearing corporation, including the Treasury/Reserve Automated Debt Equity Securities System (TRADES) or Treasury Direct systems.

Security has the same meaning as that defined in Section 8-102(a)(15) of the Uniform Commercial Code.

Securities' Certificate has the same meaning as that defined in Section 8-102(a)(16) of the Uniform Commercial Code.

Tangible Net Worth shareholders equity, less intangible assets, as reported in the broker/dealer's most recent Annual or Transition Report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (S.E.C. Form 10-K) filed with the Securities and Exchange Commission.

Treasury/Reserve Automated Debt Entry Securities System (TRADES) and Treasury Direct the book entry securities systems established pursuant to 31 U.S.C. §3100 et seq., 12 U.S.C. pt. 391 and 5 U.S.C. pt. 301. The operation of TRADES and Treasury Direct are subject to 31 C.F.R. pt. 357 et seq.

AUTHORITY NOTE: Promulgated in accordance with Act 342 of the 2004 Louisiana Regular Legislative Session; R.S. 22:39.D; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:1092 (May 2005).

§10503. Custody Agreement; Requirements

A. An insurance company may, by written agreement with a custodian, provide for the custody of its securities with that custodian. The securities that are the subject of the agreement may be held by the custodian or its agent or in a clearing corporation.

B. The agreement shall be in writing and shall be authorized by a resolution of the board of directors of the insurance company or of an authorized committee of the board. The terms of the agreement shall comply with the following.

1. Securities' certificates held by the custodian shall be held separate from the securities' certificates of the custodian and of all of its other customers.

2. Securities held indirectly by the custodian and securities in a clearing corporation shall be separately identified on the custodian's official records as being owned by the insurance company. The records shall identify which securities are held by the custodian or by its agent and which securities are in a clearing corporation. If the securities are in a clearing corporation, the records shall also identify where the securities are and if in a clearing corporation, the name of the clearing corporation and if through an agent, the name of the agent.

3. All custodied securities that are registered shall be registered in the name of the company or in the name of a nominee of the company or in the name of the custodian or its nominee or, if in a clearing corporation, in the name of the clearing corporation or its nominee.

4. Custodied securities shall be held subject to the instructions of the insurance company and shall be withdrawable upon the demand of the insurance company, except that custodied securities used to meet the deposit requirements set forth in Section 22:1021 of this insurance law shall, to the extent required by that Section, be under the control of the Louisiana Department of Insurance and shall not be withdrawn by the insurance company without the approval of the Louisiana Department of Insurance.

5. The custodian shall be required to send or cause to be sent to the insurance company a confirmation of all transfers of custodied securities to or from the account of the insurance company. In addition, the custodian shall be required to furnish no less than monthly the insurance company with reports of holdings of custodied securities at times and containing information reasonably requested by the insurance company. If applicable, the custodian's trust committee's annual reports of its review of the insurer's trust accounts shall also be provided to the insurer. Reports and verifications may be transmitted in electronic or paper form.

6. During the course of the custodian's regular business hours, an officer or employee of the insurance company, an independent accountant selected by the insurance company and a representative of an appropriate regulatory body shall be entitled to examine, on the premises of the custodian, the custodian's records relating to custodied securities, but only upon furnishing the custodian with written instructions to that effect from an appropriate officer of the insurance company.

7. The custodian and its agents shall be required to maintain and make available to the insurance company as it may reasonably request:

a. reports which they receive from a clearing corporation on their respective systems of internal accounting control; and

b. reports prepared by outside auditors on the custodians or its agent's internal accounting control of custodied securities.

8. The custodian shall maintain records sufficient to determine and verify information relating to custodied securities that may be reported in the insurance company's annual statement and supporting schedules and information required in an audit of the financial statements of the insurance company.

9. The custodian shall provide, upon written request from an appropriate officer of the insurance company, the appropriate affidavits, substantially in the form attached to this regulation, with respect to custodied securities.

10. A national bank, state bank or trust company shall secure and maintain insurance protection in an adequate amount covering the bank's or trust company's duties and activities as custodian for the insurer's assets, and shall state in the custody agreement that protection is in compliance with the requirements of the custodian's banking regulator. A broker/dealer shall secure and maintain insurance protection for each insurance company's custodied securities in excess of that provided by the Securities Investor Protection Corporation in an amount equal to or greater than the market value of each respective insurance company's custodied securities. The commissioner may determine whether the type of insurance is appropriate and the amount of coverage is adequate.

11. The custodian shall be obligated to indemnify the insurance company for any loss of custodied securities occasioned by the negligence or dishonesty of the custodian's officers or employees, or burglary, robbery, holdup, theft or mysterious disappearance, including loss by damage or destruction.

12. In the event that there is a loss of custodied securities for which the custodian shall be obligated to indemnify the insurance company as provided in Paragraph 11 above, the custodian shall promptly replace the securities or the value thereof and the value of any loss of rights or privileges resulting from the loss of securities. Such indemnification does not apply to nor protect against losses from any change in the market value of custodied securities.

13. The agreement may provide that the custodian will not be liable for a failure to take an action required under the agreement in the event and to the extent that the taking of the action is prevented or delayed by war (whether declared or not and including existing wars), revolution, insurrection, riot, civil commotion, act of God, accident, fire, explosion, stoppage of labor, strikes or other differences with employees, laws, regulations, orders or other acts of any governmental authority, or any other cause whatever beyond its reasonable control.

14. In the event that the custodian gains entry in a clearing corporation through an agent, there shall be an agreement between the custodian and the agent under which the agent shall be subject to the same liability for loss of custodied securities as the custodian. However, if the agent shall be subject to regulation under the laws of a jurisdiction that is different from the jurisdiction the laws of which regulate the custodian, the Commissioner of Insurance of the state of domicile of the insurance company may accept a standard of liability applicable to the agent that is different from the standard of liability applicable to the custodian.

15. The custodian shall provide written notification to the insurer's domiciliary commissioner if the custodial agreement with the insurer has been terminated or if 100 percent of the account assets in any one custody account have been withdrawn. This notification shall be remitted to the insurance commissioner within three business days of the receipt by the custodian of the insurer's written notice of termination or within three business days of the withdrawal of 100 percent of the account assets.

AUTHORITY NOTE: Promulgated in accordance with Act 342 of the 2004 Louisiana Regular Legislative Session; R.S. 22:39.D.; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:1093 (May 2005).

§10505. Deposit with Affiliates; Requirements

A. Nothing in this regulation shall prevent an insurance company from depositing securities with another insurance company with which the depositing insurance company is affiliated, provided that the securities are deposited pursuant to a written agreement authorized by the board of directors of the depositing insurance company or an authorized committee thereof and that the receiving insurance company is organized under the laws of one of the states of the United States of America or of the District of Columbia. If the respective states of domicile of the depositing and receiving insurance companies are not the same, the depositing insurance company shall have given notice of the deposit to the insurance commissioner in the state of its domicile and the insurance commissioner shall not have objected to it within 30 days of the receipt of the notice.

B. The terms of the agreement shall comply with the following.

1. The insurance company receiving the deposit shall maintain records adequate to identify and verify the securities belonging to the depositing insurance company.

2. The receiving insurance company shall allow representatives of an appropriate regulatory body to examine records relating to securities held subject to the agreement.

3. The depositing insurance company may authorize the receiving insurance company:

a. to hold the securities of the depositing insurance company in bulk, in certificates issued in the name of the receiving insurance company or its nominee, and to commingle them with securities owned by other affiliates of the receiving insurance company; and

b. to provide for the securities to be held by a custodian, including the custodian of securities of the receiving insurance company or in a clearing corporation.

AUTHORITY NOTE: Promulgated in accordance with Act 342 of the 2004 Louisiana Regular Legislative Session; R.S. 22:39.D.; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:1094 (May 2005).

§10507. Custodian AffidavitCForm A

CUSTODIAN AFFIDAVIT

(For use by a custodian where securities entrusted to its care have not been redeposited elsewhere.)

STATE OF _____)
)ss.
COUNTY OF _____)

_____, being duly sworn deposes and says that he or she is _____ of _____, a corporation organized under and pursuant to the laws of the _____ with the principal place of business at _____ (hereinafter called the "corporation"):

That his or her duties involve supervision of activities as custodian and records relating thereto;

That the corporation is custodian for certain securities of _____ having a place of business at _____ _____ (hereinafter called the "insurance company") pursuant to an agreement between the corporation and the insurance company;

That the schedule attached hereto is a true and complete statement of securities (other than those caused to be deposited with The Depository Trust Company or like entity or a Federal Reserve Bank under the TRADES or Treasury Direct systems) which were in the custody of the corporation for the account of the insurance company as of the close of business on _____; that, unless otherwise indicated on the schedule, the next maturing and all subsequent coupons were then either attached to coupon bonds or in the process of collection; and that, unless otherwise shown on the schedule, all such securities were in bearer form or in registered form in the name of the insurance company or its nominee or of the corporation or its nominee, or were in the process of being registered in such form;

That the corporation as custodian has the responsibility for the safekeeping of such securities as that responsibility is specifically set forth in the agreement between the corporation as custodian and the insurance company; and

That, to the best of his or her knowledge and belief, unless otherwise shown on the schedule, the securities were the property of the insurance company and were free of all liens, claims or encumbrances whatsoever.

Subscribed and sworn to
before me this _____ day
of _____, 20____
_____ (L.S.)
Vice President [or other authorized officer]

AUTHORITY NOTE: Promulgated in accordance with Act 342 of the 2004 Louisiana Regular Legislative Session; R.S. 22:39.D.; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:1095 (May 2005).

§10509. Custodian AffidavitCForm B

CUSTODIAN AFFIDAVIT

(For use in instances where a custodian corporation maintains securities on deposit with the Depository Trust Company or like entity.)

STATE OF _____)
) ss.
COUNTY OF _____)

_____, being duly sworn deposes and says that he or she is _____ of _____, a corporation organized under and pursuant to the laws of the _____ with the principal place of business at _____ (hereinafter called the "corporation"):

That his or her duties involve supervision of activities of the corporation as custodian and records relating thereto;

That the corporation is custodian for certain securities of _____ having a place of business at _____ _____ (hereinafter called the "insurance company") pursuant to an agreement between the corporation and the insurance company;

That the corporation has caused certain of such securities to be deposited with _____ and that the schedule attached hereto is a true and complete statement of the securities of the insurance company of which the corporation was custodian as of the close of business on _____, and which were so deposited on such date;

That the corporation as custodian has the responsibility for the safekeeping of the securities both in the possession of the corporation or deposited with _____ as is specifically set forth in the agreement between the corporation as custodian and the insurance company; and

That, to the best of his or her knowledge and belief, unless otherwise shown on the schedule, the securities were the property of the insurance company and were free of all liens, claims or encumbrances whatsoever.

Subscribed and sworn to
before me this _____ day
of _____, 20____
_____ (L.S.)
Vice President [or other authorized officer]

AUTHORITY NOTE: Promulgated in accordance with Act 342 of the 2004 Louisiana Regular Legislative Session; R.S. 22:39.D.; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:1095 (May 2005).

§10511. Custodian AffidavitCForm C

CUSTODIAN AFFIDAVIT

(For use where ownership is evidenced by book entry at a Federal Reserve Bank.)

STATE OF _____)
) ss.
COUNTY OF _____)

_____, being duly sworn deposes and says that he or she is _____ of _____, a corporation organized under and pursuant to the laws of the _____ with the principal place of business at _____ (hereinafter called the "corporation"):

That his or her duties involve supervision of activities of the corporation as custodian and records relating thereto;

That the corporation is custodian for certain securities of _____ with a place of business at _____ (hereinafter called the "insurance company") pursuant to an agreement between the corporation and the insurance company;

That it has caused certain securities to be credited to its book entry account with the Federal Reserve Bank of _____ under the TRADES or Treasury Direct systems; and that the schedule attached hereto is a true and complete statement of the securities of the insurance company of which the corporation was custodian as of the close of business on _____, which were in a "general" book entry account maintained in the name of the corporation on the books and records of the Federal Reserve Bank of _____ at such date;

That the corporation has the responsibility for the safekeeping of such securities both in the possession of the corporation or in the "general" book entry account as is specifically set forth in the agreement between the corporation as custodian and the insurance company; and

That, to the best of his or her knowledge and belief, unless otherwise shown on the schedule, the securities were the property of the insurance company and were free of all liens, claims or encumbrances whatsoever.

Subscribed and sworn to
before me this _____ day
of _____, 20____
_____ (L.S.)
Vice President [or other authorized officer]

AUTHORITY NOTE: Promulgated in accordance with Act 342 of the 2004 Louisiana Regular Legislative Session; R.S. 22:39.D.; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:1095 (May 2005).

J. Robert Wooley
Commissioner

0505#036

RULE

Department of Insurance
Office of the Commissioner

Rule Number 10 Continuing Education
(LAC 37:XI.717 and 723)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Insurance hereby adopts these amendments to its Rule 10 relating to the guidelines for continuing education requirements. The amended Rule 10 will become effective upon publication in the May 2005 *Louisiana Register*. This action complies with the statutory law administered by the Department of Insurance.

Title 37
INSURANCE
Part XI. Rules

Chapter 7. Rule Number 10C Continuing Education

§717. Rule 10.10. Measurement of Credit

A. - D.table. …

E. Example of Continuing Education Credit Chart §717.D

1. - 1.e. …

f. F Division hours 4.

F. - G. …

H.1. Members of state or national professional associations may be granted four continuing education credits each year for actively participating in a state or national insurance association in one of the following methods:

a. attend a formal meeting of a state or national association where a formal business program is presented and attendance is verified in a manner consistent with the provisions of Rule 10;

b. serve on the board of directors or a formal committee of a state or national chapter of the association, and actively participate in the activities of the board or committee;

c. participate in industry, regulatory, or legislative meetings held by or on behalf of a state or national chapter of the association; or

d. participate in other formal insurance business activities of a state or national chapter of the association.

2. In order to qualify for continuing education credit under this provision, members must attend at least 4 hours of qualified activities. Continuing education credit shall be given as one 4 hour increment each year from the association in a manner consistent with the provisions of Rule 10. The association shall be responsible for verifying attendance or participation of members for all events where continuing education credit is given under the terms of this provision. Attendance at meetings which are otherwise approved for continuing education credit do not qualify under the terms of this provision. The association shall file with the department for approval of a "course number" which shall be shown on all continuing education certificates issued under the terms of this provision.

3. Continuing education credit for membership in a bail bond association may only be applied towards renewal or reinstatement of a bail bond producer license. Continuing education credit for membership in a life, health and accident, property or casualty type association may only be applied towards renewal or reinstatement of a similar producer license.

4. Licensed producers may receive multiple member association certifications due to membership in more than one association; however, the licensee may only apply one membership certification to each renewal of his license. This certification must have been issued within the two year period immediately preceding renewal of the license.

AUTHORITY NOTE: Promulgated in accordance with Act 428 of the 1989 Louisiana Regular Legislative Session; R.S. 22: 1193; and the Louisiana Administrative Procedure Act, R.S. 49: 950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 16:858 (October 1990), amended LR 17:792 (August 1991), LR 20:1395 (December 1994), LR 28:509 (March 2002), LR 31:1096 (May 2005).

§723. Rule 10.13 Credit for Individual Study Programs

A. …

B. Insurance companies admitted to do business in the state of Louisiana, insurance trade associations as recognized by the commissioner, and accredited public or private colleges or universities may be recognized as providers of independent study courses. Other organizations recommended by the council and authorized by the commissioner may be approved as providers of independent study courses if they meet one of the following qualifications:

1. five years or more experience as a recognized insurance education provider of independent study courses;

2. accreditation by a national education organization. All individual study programs must be submitted for approval by the organization which complies or publishes the course materials. All individual study courses must be approved prior to being offered to licensees for continuing education credit. Any such course approval is not transferable to any other entity.

C. Continuing education credit for individual study programs must be applied to the current license renewal and may not be carried over to subsequent license renewals. No individual study program will be certified for more than 24 continuing education credit hours for property-casualty courses or 16 continuing credit hours for life-health courses.

D. Qualified individual study program providers (example: national publishing companies) may not contract their provider status to other CE providers. The integrity of materials and testing are the responsibility of the approved provider and must be maintained under their direct control. Local CE providers may act as vendors or marketing agents of approved individual study program providers as long as the provider controls the materials and testing.

AUTHORITY NOTE: Promulgated in accordance with Act 428 of the 1989 Louisiana Regular Legislative Session; R.S. 22: 1193; and the Louisiana Administrative Procedure Act, R.S. 49: 950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 16:859 (October 1990), amended LR 17:793 (August 1991), LR 20:1396 (December 1994), LR 28:510 (March 2002), LR 31:1096 (May 2005).

J. Robert Wooley
Commissioner

0505#037

RULE

Department of Public Safety and Corrections
Office of Corrections Services

Adult and Juvenile Services Notice
(LAC 22:I.367)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Department of Public Safety and Corrections, Corrections Services, has repealed the entire contents of §367, Notice.

The Department of Public Safety and Corrections has repealed the current regulation based on the fact that R.S. 15:866.2 is current law. As a result, Notice in Title 22 is merely duplicative.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part I. CORRECTIONS
Chapter 3. Adult and Juvenile Services
§367. Notice

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19:657 (May 1993), repealed by the Department of Public Safety and Corrections, Corrections Services, LR 31:1097 (May 2005).

Richard L. Stalder
Secretary

0505#055

RULE

Department of Public Safety and Corrections
Office of Corrections Services

Air Traffic Regulation, Attorney Visits,
and Inmate Marriage Request
(LAC 22:I.105, 317, and 329)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Department of Public Safety and Corrections, Corrections Services, has amended §317.Attorney Visits, and §329.Inmate Marriage Requests, and adopted §105.Regulation of Air Traffic.

Within the Department of Public Safety and Corrections, the Office of Youth Development has been statutorily separated from the Office of Corrections Services. Therefore, Title 22 is being re-codified into two sections: adult offenders and juvenile offenders. The purpose of the repromulgation of the aforementioned regulations is to further this effort by reorganizing all policies deemed to be internal management or any policy that has since been written into an existing regulation.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part I. Corrections
Chapter 1. Secretary's Office
§105. Regulation of Air Traffic

A. Purpose. To establish the secretary's policy regarding air traffic at correctional institutions.

B. Applicability. Chief of Operations, Assistant Secretary and Wardens. Each warden shall ensure that procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy that all incoming and outgoing aircraft to and from the institutions be monitored.

D. General Procedures

1. Individuals who have reason to come to the institutions via aircraft must request permission and receive authorization in advance, by telephone or in writing, to land at the institution, specifically to land on the airstrip at the Louisiana State Penitentiary or Dixon Correctional Institute.

2. Requests should be directed to the warden's office during regular business hours, Monday through Friday. Calls received after hours or on weekends or holidays will be handled by the duty officer.

3. The individual requesting permission to land must provide the following information:

a. reason for coming to the institution;

b. date and expected time of arrival;

c. number and names of persons aboard aircraft; and

d. type of aircraft, color, and registration number.

4. The warden's office will notify the control center of approved air traffic. The control center will notify the prison towers to inform the officer(s) of the incoming air traffic, the expected time of arrival, and description of the aircraft. The tower officer will in turn inform the control center when the aircraft arrives. The control center will then dispatch security to meet the incoming aircraft and to verify the identification of the occupants and provide ground transportation when necessary.

5. A log will be maintained by security of all aircraft that lands or departs from the institution. This log will contain the date, time of arrival, type of aircraft, color, registration number, and the names of passengers.

6. Low flying aircraft attempting to land anywhere within any of the institutions will be reported to the control center immediately. The control center will notify security and other appropriate personnel.

7. Each warden is responsible for developing written procedures for handling unauthorized and/or emergency landing situations, and for securing inmates in the immediate area.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 15:831(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 31:1097 (May 2005).

Chapter 3. Adult Services

§317. Attorney Visits

A. Purpose. To provide uniform procedures for the approval and conduct of visits by attorneys to inmates.

B. Applicability. Deputy Secretary, Chief of Operations, Assistant Secretary and Wardens. The warden is responsible for implementing this regulation and conveying its contents to all inmates, affected employees and attorneys seeking to visit.

C. Policy. It is the secretary's policy that attorney visits be in accordance with the procedures outlined herein.

D. Procedures

1. Approval of Attorneys. An attorney's credentials must be verified through the State Bar Association prior to being approved to visit or initiate privileged communication with inmates.

2. Approval of Authorized Representatives. Paralegal assistants, law clerks, and investigators may be permitted to enter the institution to conduct interviews with inmate clients of their supervising attorney, either with the attorney or alone. Such permission is at the discretion of the warden, who may approve or disapprove these requests. Prior to a paralegal assistant (hereinafter referred to as paralegal), law clerk, or investigator being approved to enter the grounds of the institution, the following criteria must be met by the employing attorney.

a. The paralegal, law clerk, or investigator must not be on the visiting list of any inmate confined in a state institution (except for immediate family members.)

b. A paralegal must have completed a paralegal or legal assistant study program at an accredited four-year college or junior college, or have completed a paralegal or legal assistant study program approved by the American Bar Association. [Certification by the National Association of Legal Assistants, Inc. as a Certified Legal Assistant (CLA) may be substituted for the aforementioned programs.]

c.i. The employing or supervising attorney must submit an affidavit (see attached form) to the warden of the institution to be visited certifying the following prior to the approval for a paralegal, law clerk, or investigator to enter institutional grounds:

(a). the individual's name, social security number, and birth date;

(b). the length of time the individual has been employed or supervised by the attorney;

(c). paralegals and investigators must attach a copy of their certification or license to the affidavit.

ii. This information will then be verified, and the attorney notified of the disposition of the request. Thereafter, for a period not to exceed one year from the date of approval, as long as the paralegal, law clerk, or investigator continues in the employ or under the supervision of the same attorney, visits may be approved.

3. Scheduling. Visits by attorneys and their authorized representatives must be scheduled through the institution at least 24 hours in advance.

4. Time of Visits. Visits by attorneys and their authorized representatives must normally take place Monday through Friday, excluding holidays, between the hours of 8 a.m. and 4 p.m.

5. Exceptions

a. The warden may approve special visits not in conformity with Subsection E. when unusual circumstances warrant.

b. Any improper acts or unethical behavior with an inmate during a visit may result in an attorney or their authorized representatives being denied future requests to visit an inmate.

E. Limitations on Visits

1. Number of Inmates. Generally, no more than ten inmates may be seen at any one time, and no more than twenty on any one day. Further limitations may be imposed by the warden if valid reasons exist.

2. Number of Attorneys. Generally, no more than two persons (attorneys, paralegals, law clerks, investigators or any combination thereof) may see an inmate on any one day; however, the number visiting at one time may be limited based on available space and security constraints. Exceptions may be approved for good cause by the warden.

F. General

1. Paralegals, law clerks, and investigators may be required to attend training/ orientation prior to be allowed to visit.

2. Inmates may refuse to see any attorney, but such refusal should be in writing.

3. A log shall be maintained of all visits by attorneys, paralegals, law clerks, and investigators.

4. Visits may be visually observed, but conversations between inmates and counsel shall not, under any circumstance, be monitored.

5. Visits between death row inmates and attorneys, paralegals, law clerks, and investigators may be non-contact at the warden's discretion.

6. Attorneys, paralegals, law clerks, and investigators are subject to the procedures regarding searches outlined in Department Regulation No. C-02-005 "Searches of Visitors," as are all other visitors.

G. Exception. Nothing contained in this regulation shall apply to attorneys representing the state, the department, or the institution.

STATE OF _____

PARISH/COUNTY OF _____

PARALEGAL, LAW CLERK, OR INVESTIGATOR AFFIDAVIT

BEFORE ME, the undersigned Notary, personally came and appeared _____(1)_____ who after being duly sworn did depose and say that:

I am an attorney-at-law and I am presently representing _____(2)_____ an inmate confined by the Louisiana Department of Public Safety and Corrections. _____(3)_____ is employed or supervised by me as a _____(4)_____, and has been since _____(5)_____.

Should the individual leave my employ or supervision, I will notify the institution.

_____

Attorney-at-Law

Sworn to and subscribed before me this ____day of _____, _____ at _____

_____

Notary

(1) Attorney's name

(2) Inmate's name and DOC #

(3) Representative's name, social security number and birth date

(4) Paralegal, law clerk, or investigator
(5) Beginning date of employment or supervision

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:833(A).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 26:1313 (June 2000), amended LR 31:1098 (May 2005).

§329. Inmate Marriage Requests

A. Purpose. The purpose of this regulation is to establish the secretary's policy concerning inmate marriage requests.

B. Applicability. The regulation is applicable to the deputy secretary, chief of operations, assistant secretary and all the wardens. It is the warden's responsibility to ensure that the appropriate procedures are in place to comply with the provisions of this regulation.

C. Procedures

1. An inmate's request to be married should be submitted to the warden for review.

2. The warden or designee and/or the chaplain should discuss the marriage proposal with both the parties and document that the parties were counseled.

3. Should the chaplain choose not to perform the marriage, he should so inform both parties. Only approved and licensed authorities (clergy, judges and justices of the peace) will be permitted to perform the ceremony.

4. The inmate must appropriately certify that both parties meet all legal qualifications for marriage. The burden of proof rests with the inmate to gather this information.

5. If both parties are incarcerated in correctional institutions, the marriage may be postponed until one of them has been released.

6. The inmate making the request must pay for all costs associated with the marriage.

7. Absent unusual circumstances related to legitimate penological objectives, the warden or designee should approve the marriage request and set an appropriate time and place for the ceremony. Furloughs will not granted for a marriage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, Offices of Adult and Juvenile Services, LR 11:1093 (November 1985), amended by the Department of Public Safety and Corrections, Corrections Services, LR 31:1099 (May 2005).

Richard L. Stalder
Secretary

0505#052

RULE

Department of Public Safety and Corrections
Office of Corrections Services

General Prohibited Behaviors
(LAC 22:I.365)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Department of Public Safety and Corrections, Office of Corrections establishes the following Rule relative to R.S. 15:823 which allows the department to make reasonable rules and regulations, and Cassels v. Stalder, 342 F. Supp. 2d 555. The Secretary of Public Safety and Corrections has amended LAC 22:I.365.Y, Disciplinary Rules and Procedures for Adult Offenders.

This Rule fundamentally addresses the abridgment of an inmate's ability to communicate information (allegations) for the purpose of obtaining legal assistance. The current language was determined to be unconstitutional by the federal ruling on Cassels.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part I. Corrections
Chapter 3. Adult and Juvenile Services
Subchapter B. Disciplinary Rules and Procedures for Adult Offenders

§365. Disciplinary Rules

A. - X. …

Y. General Prohibited Behaviors (Schedule B): The following behaviors which may impair or threaten the security or stability of the unit or well being of an employee, visitor, guest, inmate or their families are prohibited:

1. - 10. …

11. the communication of malicious, frivolous, false, and/or inflammatory statements or information, the purpose of which is reasonably intended to harm, embarrass, or intimidate an employee, visitor, guest, or inmate. This Rule shall not apply to information and/or statements communicated for the express purpose of obtaining legal assistance;

12. - 23. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995). Cassels v. Stalder, 342 F. Supp. 2d 555.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:419 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 31:1099 (May 2005).

Richard L. Stalder
Secretary

0505#053

RULE

Department of Public Safety and Corrections
Office of Corrections Services

Public Information Program and
Medical Reimbursement Plan
(LAC 22:I.339, 2103, 2105)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Department of Public Safety and Corrections, Corrections Services, has amended the contents of §339, Public Information Program and Media Access, §2103, Applicability, and §2105, Medical Reimbursement Plan Pursuant to R.S. 15:831 (B)(1).

Within the Department of Public Safety and Corrections, the Office of Youth Development has been statutorily separated from the Office of Corrections Services. Therefore, Title 22 is being re-codified into two sections: adult offenders and juvenile offenders. The purpose of the amendments of the aforementioned regulations is to further

this effort by reorganizing all policies deemed to be internal management or any policy that has since been written into an existing regulation.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part I. Corrections

Chapter 3. Adult Services

§339. Public Information Program and Media Access

A. ...

B. Applicability. Undersecretary, Assistant Secretaries, all Wardens, the Director of Probation and Parole, and the Director of Prison Enterprises. Each unit head shall develop procedures to facilitate interaction with the public, the media, and other agencies and shall ensure that necessary information and instructions are furnished to affected employees and inmates.

C. - D. ...

* * *

Unit Head the head of an operational unit, such as Wardens, the Director of Probation and Parole, or the Director of Prison Enterprises.

E. - E.1.a. ...

b. contact person for routine requests for information;

c. - f. ....

2. The unit head or designee shall facilitate all routine media inquiries, interview requests and/or correctional facility visits. Such requests must be made within a reasonable timeframe, considering the scope of the story and the unit's ability to adequately prepare for the visit. The unit head will give timely notice to the secretary, chief of operations, communications director, and assistant secretary as appropriate of any significant or potentially controversial event.

3. The unit head shall notify the secretary, chief of operations, communications director and assistant secretary as appropriate of national and international media requests made to the department upon receiving the request.

4. All media visitors will be provided with an escorting staff member for the duration of the visit.

5. Only those persons authorized by the secretary or unit head shall release information to the media regarding official matters. Authorized spokespersons shall be knowledgeable of issues and departmental policy and shall ensure the accuracy of information before releasing it.

6. In the event of an institutional emergency, all public and media access to the institution may be limited. The warden or his media relations designee will periodically brief all media on the situation. A media briefing center may be established at a remote location.

7. All on-site media contacts with inmates are at the sole discretion of the unit head.

8. Written permission should be obtained from an inmate prior to interviewing, photographing, and/or audio or video recording of the inmate. With reference to juvenile offenders, written permission must be obtained from the juvenile's parent, guardian, or attorney, (except when the juvenile is not identifiable). Death row inmates must also have their attorney's written approval prior to an interview, photograph, and/or audio or video recording. No remuneration will be provided to any inmate.

9. Interviews with inmates housed in maximum custody areas for behavioral problems and/or poor conduct records are discouraged.

10. Access to inmates should also be restricted or disallowed to prevent them from profiting from their crimes, either materially or through enhanced status as a result of media coverage.

F. - F.1.f. …

2. Written requests shall be forwarded to the secretary for final review prior to project commencement.

3. All commercial productions are required to read, understand and sign a Location Agreement Form upon their arrival at the unit. The location agreement will specifically outline the scope of the work to be performed. The unit head (or designee) may require review of the material prior to distribution solely to insure that it comports with the Location Agreement Form.

G. - J. …

AUTHORITY NOTE: Promulgated in accordance with American Correctional Association (ACA) Standards 2-CO-1A-25 through 27-1 (Administration of Correctional Agencies) 3-4020 through 3-4022 (Adult Correctional Institutions).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 25:1260 (July 1999), amended LR 31:1100 (May 2005).

Chapter 21. Medical Reimbursement Plan

§2103. Applicability

Applicability deputy secretary, chief of operations, assistant secretary, wardens, and administrators of local jail facilities. The unit head is responsible for implementation and continued adherence to this regulation and for conveying its contents to employees and inmates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:831(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services LR 26:331 (February 2000), amended LR 31:1100 (May 2005).

§2105. Medical Reimbursement Plan Pursuant to R.S. 15:831(B)(1)

A. Inmates Housed in State Institutions

1. Procedures concerning medical co-payments are outlined in Department Regulation No. B-06-001 "Health Care." Please see Health Care Policy No. HC-13 "Health Screens, Appraisals and Examinations."

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

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 15:831(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 26:331 (February 2000), amended LR 26:2623 (November 2000), LR 31:1100 (May 2005).

Richard L. Stalder
Secretary

0505#054

RULE

Department of Revenue
Policy Services Division

Absorption of the Sales Tax by Sellers of
Taxable Goods and Services Penalty
(LAC 61:I.4351)

Under the authority of R.S. 47:306, R.S. 47:337.2, R.S. 47:337.18, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.4351 relative to the absorption of sales and use tax by selling dealers.

This amendment to LAC 61:I.4351 describes the procedures for filing sales tax returns and remitting the tax collected from customers. LAC 61:I.4351.A.6 references R.S. 47:304(F) and LAC 61:I.4311.C regarding the penalty for absorption of the sales tax by a selling dealer. Prior to July 1, 2001, R.S. 47:304(F) prohibited a vendor from advertising or holding out to the public in any way that he would absorb all or any portion of the tax collectable from customers. Act 245 of the 2001 Regular Legislative Session amended R.S. 47:304(F) to allow dealers to absorb the sales tax under certain conditions. Act 73 of the 2003 Regular Session enacted R.S. 47:337.17(F), which imposed similar conditions for the absorption of local sales and use taxes. This proposal amends LAC 61:I.4351.A.6 to concur with the provisions in these statutes that allow for absorbing the tax.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 43. Sales and Use Tax
§4351. Returns and Payment of Tax, Penalty for Absorption of the Tax

A. - A.5. …

6. Except as provided in R.S. 47:304(F)(1), R.S. 47:337.17(F)(1), and LAC 61:I.4311.C, dealers or sellers must separately list the sales tax from the price paid by the purchaser. Otherwise, the absorption of the tax by any retailer, wholesaler, manufacturer, or other supplier shall be punished in accordance with R.S. 47:304(F)(3) and R.S. 47:337.17(F)(3).

B. - C.6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:306.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 22:852 (September 1996), amended by the Department of Revenue, Sales Tax Division, LR 23:1530 (November 1997), amended by the Department of Revenue, Policy Services Division, LR 31:1101 (May 2005).

Raymond E. Tangney
Senior Policy Consultant

0505#016

RULE

Department of Revenue
Policy Services Division

Absorption of the Sales Tax by Sellers of
Taxable Goods and Services Requirements
(LAC 61:I.4311)

Under the authority of R.S. 47:304, R.S. 47:337.2, R.S. 47:337.17, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.4311 relative to the absorption of sales and use tax by selling dealers.

This amendment to LAC 61:I.4311.C and D describes the treatment of sales and use taxes collected by selling dealers as required by R.S. 47:304(F) and R.S. 47:337.17(F). Prior to July 1, 2001, R.S. 47:304(F) prohibited a vendor from advertising or holding out to the public in any way that he would absorb all or any portion of the tax collectable from customers. Act 245 of the 2001 Regular Legislative Session amended R.S. 47:304(F) to allow dealers to absorb the sales tax under certain conditions. Act 73 of the 2003 Regular Session enacted R.S. 47:337.17(F), which imposed similar conditions for the absorption of local sales and use taxes. This amendment describes the requirements necessary for a dealer to absorb the tax.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 43. Sales and Use Tax
§4311. Treatment of Tax by Dealer

A. - B. …

C. Sellers, as far as practical, must separately list the sales tax from the selling price or payment for the goods or services sold. Sellers are prohibited from absorbing all or any part of the tax except when all of the following conditions are met.

1. Customers must be notified prior to the sale that the seller will remit the tax due to the appropriate taxing jurisdiction. Advertising through newspapers, magazines, television or radio commercials, billboards, and in-store displays or brochures are considered adequate notification. Oral comments made to customers immediately prior to the sale are not adequate notification to satisfy this requirement.

2. The dealer must absorb the tax for all of the customers from a predetermined class of purchases. Privately agreeing to absorb the tax for a particular customer in order to secure a sale is prohibited.

3. The sales invoices or receipts given to customers must list the amount of tax that would have been collected and include a statement that the seller will pay the tax to the appropriate taxing jurisdiction on behalf of the customer.

D. Sellers that violate the provisions of LAC 61:I.4311.C are subject to fines and imprisonment as provided for in R.S. 47:304(F)(3) and R.S. 47:337.17(F)(3).

E. - H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:304, R.S. 47:337.2, R.S. 47:337.17, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 30:2867 (December 2004), LR 31:1101 (May 2005).

Raymond E. Tangney
Senior Policy Consultant

0505#015

RULE

Department of Revenue
Policy Services Division

Local Sales Tax Return Reporting Format
(LAC 61:II.101)

Under the authority of R.S. 47:337.2, R.S. 47:337.22, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has repealed LAC 61:II.101, pertaining to the reporting format for local sales tax returns, to comply with the provisions of Act 73 of the 2003 Regular Legislative Session.

Revised Statutes 33:2713.1, 2737(G), and 2741.1 required the Department of Revenue to adopt a standard sales and use tax reporting format for local taxing jurisdictions within the state. Act 73 of the 2003 Regular Legislative Session, which created the Uniform Local Sales and Use Tax Code, repealed these statutes. The Act also enacted R.S. 47:337.22 assigning the authority for designing a standard form for reporting local sales and use taxes to the Uniform Electronic Local Return and Remittance Advisory Committee. LAC 61:II.101 was repealed in accordance with the repeal of the authorizing statutes, R.S. 33:2713.1, 2737(G), and 2741.1, and the enactment of R.S. 47:337.22.

Title 61
REVENUE AND TAXATION
Part II. Taxes Collected and Administered by Local Subdivisions
Chapter 1. Sales and Use Tax
§101. Reporting Format

Repealed.

AUTHORITY NOTE: Repealed in accordance with R.S. 47:337.2, R.S. 47:337.22, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 18:287 (March 1992), repealed by the Department of Revenue, Policy Services Division, LR 31:1102 (May 2005).

Raymond E. Tangney
Senior Policy Consultant

00505#017

RULE

Department of Social Services
Office of Family Support

SES Judicial Suspension of Licenses
(LAC 67.III.2527, 2540, and 2545)

The Department of Social Services, Office of Family Support, Support Enforcement Services has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the Support Enforcement Program.

Pursuant to R.S. 9:315.30 through 9:315.40 et seq., the agency has amended the procedure for suspension of license(s) for nonpayment of child support by clarifying noncompliance with a court order and reducing the judicial six-month arrearage time period to 90 days. It also adopts the term non-custodial parent in lieu of absent parent.

Additionally, language is amended to reflect federal regulations that mandate IV-D agencies to secure and enforce medical support where appropriate in child support enforcement cases through the use of the national medical support notice.

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 4. Support Enforcement Services
Chapter 25. Support Enforcement
Subchapter H. Medical Support Activities
§2527. Securing and Enforcing Medical Support Obligation

A. Support Enforcement Services shall secure medical support information and enforce medical support through the use of the national medical support notice.

B. Unless the custodial parent and child(ren) have satisfactory health insurance other than Medicaid, IV-D shall petition the court to include health insurance that is available to the non-custodial parent at reasonable cost in new or modified orders for support. Health insurance is considered reasonable in cost if it is employment related or some other group health insurance. A medical support order shall be obtained whether or not health insurance is actually available to the non-custodial parent at the time the order is entered, or modification of current coverage to include the child(ren) in question is immediately possible.

C. The IV-D agency will take steps to enforce the medical support order if health insurance is available to the non-custodial parent at reasonable cost but has not been secured at the time the order is issued.

D. SES may enforce court-ordered medical support by means of income assignment in cases where the court has ordered a specific dollar amount for medical care.

E. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.31 and 303.32 R.S. 46:236.1.2(A)(5), 46:236.3, Ch.C. Art.1305.1 et seq., 46:236.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:245 (April 1986) amended by the Department of Social Services, Office of Family Support, LR 22:118 (February 1996), LR 31:1102 (May 2005).

Subchapter L. Enforcement of Support Obligations

§2540. Judicial Suspension of License(s) for Nonpayment of Child Support

A. The agency may, under certain circumstances, petition the courts for an order to suspend the license(s) of an individual who is not in compliance with an order for support. The criteria for referral are as follows:

1. - 2. ...

3. the non-custodial parent is at least 90 days in arrears or not complying with a court order to make periodic payments.

B. The court on its own motion or upon motion of an obligee or the department shall issue an order of suspension of a license or licenses of any obligor upon proof of nonpayment evidenced by:

1. failure to pay child support on a regular basis; or

2. remittance of payments of support only after continuous requests or legal action by or on behalf of the obligee; or

3. remittance of the minimal amount of child support owed.

C. The obligor will be given a 30-day advance written notice affording an opportunity to liquidate the arrears or make satisfactory arrangements with the agency prior to the case being referred.

D. In cases in which a non-custodial parent fails to respond to a subpoena or a warrant involving support or paternity matters SES may petition the court to suspend all licenses of the parent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:315.30 through 315.35, P.L. 104-193, R.S. 9:315.36.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:118 (February 1996), amended LR 23:748 (June 1997), LR 31:1103 (May 2005).

§2545. Administrative Suspension of Licenses Issued by the State of Louisiana

A. SES may administratively suspend licenses of child support obligors who are not in compliance with an order for support. License suspension will be considered if income assignment is not effective, or if the obligor is not making payments or is making only periodic payments. An obligor shall meet one of the following criteria to be considered for license suspension:

1. delinquent at least 90 days in the payment of support or in making periodic payments on a support arrearage pursuant to a court order or written agreement with the department;

A.2. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:315.40 et seq.; 42 U.S.C. 666.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, Support Enforcement Services, LR 27:2264 (December 2001), amended by the Department of Social Services, Office of Family Support, LR 31:1103 (May 2005).

Ann S. Williamson
Secretary

0505#060

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Special Licenses and License Fee Waivers
(LAC 76:I.327-335)

The Wildlife and Fisheries Commission has amended and enacted provisions for special licenses and license fee waivers.

Title 76
WILDLIFE AND FISHERIES
Part I. Wildlife and Fisheries Commission and Agencies Thereunder

Chapter 3. Special Powers and Duties

Subchapter H. Electronic Licenses Issuance

§327. Recreational Electronic Licensing

A. - O. …

P. - P.5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(21), R.S. 56:641.1 and R.S. 56:647.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Management and Finance, LR 24:505 (March 1998), amended by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:1078 (May 2000), amended by Department of Wildlife and Fisheries, Office of Management and Finance, LR 27:1243 (August 2001), amended by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:354 (February 2002), LR 28:2570 (December 2002), LR 31:1103 (May 2005).

Subchapter I. Special Licenses and License Fee Waivers

§329. Outdoor Press Licenses

A. In lieu of recreational basic fishing and recreational saltwater fishing license, the secretary may issue a special outdoor press fishing license or a letter of waiver of license fees for fishing to a nonresident member of the outdoor press which will include basic and saltwater fishing. For the purpose of hunting, the secretary may issue a special outdoor press hunting license or a letter of waiver of license fees for hunting to a nonresident member of the outdoor press who meet all other legal requirements to obtain a hunting license. Such waiver may include basic hunting, big game, bow, muzzleloader, turkey, Louisiana duck license and WMA hunting permit.

1. A fee of $20 will be charged for each Outdoor Press Fishing License issued. Each license or letter of waiver to fish under this provision shall be valid for a period of three consecutive days. A fee of $20 will be charged for each outdoor press hunting license. Each license or letter of waiver for hunting shall be valid for a period of three consecutive days. A fee of $20 will be charged for both if purchased for periods that begin on the same date. Be it further provided that the secretary may waive the above referenced fees in accordance with law.

2. Each license or letter of waiver will be issued from the Baton Rouge headquarters location.

3. To qualify for a special outdoor press hunting or fishing license or letter of waiver, an applicant must submit to the Department of Wildlife and Fisheries an original completed application form with a legible photostatic copy of the applicant's driver's license, and proof of membership in a bona fide outdoor press association recognized by the

department. Evidence of such status shall be demonstrated to the satisfaction of the secretary. In lieu of membership in a bona fide outdoor press association, the secretary, for good cause shown including but not limited to clippings or tear sheets of articles or broadcast copies of previous work, may waive this requirement. In addition, the applicant shall submit a letter of assignment from the publication, television or radio company.

4. In no case will the secretary approve an application from any individual or group not directly involved in producing stories or broadcast materials pertaining to Louisiana fishing, hunting and/or outdoor recreation opportunities.

5. Only completed applications with all supporting documents and applicable license fees attached, as specified in Paragraph 3 above, shall be considered for approval.

6. The applicant shall be required, upon completion of the assignment, to provide a copy of the final product.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:109 and R.S. 56:647.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:1103 (May 2005).

§331. Special Disability Fishing and Hunting Licenses

A. In lieu of recreational basic fishing and recreational saltwater fishing licenses the department may issue a special disability fishing license to residents who qualify as *developmentally disabled* as defined in R.S. 28:751; and in lieu of basic hunting, big game hunting, bow, muzzleloader, turkey stamp, and duck hunting licenses, and WMA hunting permit, the department may issue a special disability hunting license to residents who qualify as *developmentally disabled* as defined in R.S. 28:751 and who meet all other legal requirements to obtain a hunting license. Developmentally disabled may include, but is not limited to mental retardation, cerebral palsy, downs syndrome, spina bifida, and multiple sclerosis.

1. Special disability licenses shall be issued annually and will be exempt from license fees.

2. Anyone fishing with a special disability fishing license must be accompanied by a validly licensed fisherman. Anyone hunting with a special disability hunting license must be accompanied by a validly licensed hunter.

3. All special disability fishing and hunting licenses shall be issued from the Baton Rouge headquarters location.

4. To qualify for special disability licenses an applicant must submit to the Department of Wildlife and Fisheries, the following:

a. a valid Louisiana driver's license or identification card issued by the Department of Motor Vehicles;

b. a completed application form for Developmentally Disabled License(s);

c. proof that applicant has resided in Louisiana consecutively for the immediate 12 months prior to making application as required by the department (i.e., resident driver's license of guardian or care giver, voter's registration card, vehicle registration, certification by guardian or care giver, etc.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:104, R.S. 56:109 and R.S. 56:302.2.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:1104 (May 2005).

§333. Charitable Organizations, Youth Groups and Schools; Fee Waivers

A. In lieu of recreational basic fishing and recreational saltwater fishing licenses the secretary may issue a letter of waiver of fees for fishing to members of bona fide charitable organizations, youth groups or schools. For the purpose of hunting, the secretary may issue a letter of waiver of license fees for hunting to members of bona fide charitable organizations, youth groups or schools who meet all other legal requirements to obtain a hunting license, which will include basic hunting, big game, bow, muzzleloader, turkey, Louisiana duck license and WMA hunting permit.

B. Evidence of such status shall be demonstrated to the satisfaction of the secretary.

C. Each letter authorizing a waiver of fees under this provision shall be valid for a period not to exceed three consecutive days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:104, R.S. 56:109 and R.S. 56:302.2.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:1104 (May 2005).

§335. Conferences; Fee Waivers

A. In lieu of recreational basic fishing and recreational saltwater fishing licenses the secretary may issue a letter of waiver of fees for fishing to registered non-resident participants in conferences hosted by bona fide outdoor press associations recognized by the department.

B. For the purpose of hunting, the secretary may issue a letter of waiver of license fees for hunting to registered non-resident participants in conferences hosted by bona fide outdoor press associations recognized by the department who meet all other legal requirements to obtain a hunting license. Such waiver may include basic hunting, big game, bow, muzzleloader, turkey, Louisiana duck license and WMA hunting permit.

C. Evidence of such status shall be demonstrated to the satisfaction of the secretary.

D. Each letter authorizing a waiver of fees under this provision shall be valid for a period not to exceed three consecutive days. The said three day period shall be at designated times which are during or immediately contiguous to the official dates of the conference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:104, R.S. 56:109 and R.S. 56:302.2.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:1104 (May 2005).

Dwight Landreneau
Secretary

0505#061

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry
Livestock Sanitary Board

Diseases of Animals Pet Turtles (LAC 7:XXI.Chapter 23)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the law authorizing the amendment of the Rules and regulations of the Louisiana Department of Agriculture and Forestry, R.S. 3:2358.2, the Commissioner of Agriculture and Forestry hereby proposes to amend regulations regarding the testing of pet turtles and eggs for *Salmonella*.

The Louisiana pet turtle industry produces and sells over ten million turtles annually, thereby bringing an estimated $9-12 million annually into Louisiana's economy. Louisiana's pet turtle industry depends on sales of pet turtles in foreign markets because the United States Food and Drug Administration (USDA) have banned the sale of pet turtles in the United States. The sale of pet turtles in the U.S. is banned because of the bacteria S*almonella*. Although *Salmonella* can be successfully suppressed by the use of antibiotics, USDA is concerned that the sale of pet turtles treated with antibiotics will increase the risk of the bacteria developing a resistance to current antibiotics. USDA will not consider lifting the ban on the sale of pet turtles in the U.S. until pet turtles can be successfully treated for *Salmonella* with a non-antibiotic product.

Louisiana's pet turtle industry has been able to maintain a market for pet turtles because some foreign countries are importing pet turtles to be raised and harvested for food. These countries are not requiring the pet turtles to be tested for *Salmonella*. Testing for *Salmonella* is expensive, with each test costing approximately $280. Since the average lot of pet turtles tested annually is approximately 5,000, the annual cost of *Salmonella* testing to Louisiana pet turtle farmers is $1,400,000. The cost of these tests cannot be passed on to the purchasers of pet turtles because of the rapid decline in prices. Therefore, these Rules are necessary in order to allow pet turtle farmers to use a non-antibiotic treatment and to avoid the financial burden of unnecessary testing.

These Rules comply with and are enabled by R.S. 3:2358.2. No preamble concerning the proposed Rules is available.

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals

§2301. Definitions

A. In addition to the definitions listed below, the definitions in R.S 3:2358.3 shall apply to these regulations.

* * *

Baquacil/Vantacil a chemical product classified as a polyhexamethydme biguamide dissolved in water to give a concentration of 50 ppm or a concentration as approved by the department.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), amended by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1567 (August 2000), amended by the Livestock Sanitary Board, LR 31:

§2305. Collection of Egg and Turtle Samples

A. In order to ensure a representative sample from the turtle group and to prevent cross-contamination the following procedures shall be followed.

1. Licensed turtle farmers shall inform the department in a timely manner of their intention to ship turtle hatchlings or eggs to arrange certification procedures.

2. Upon notification by the farmer, a department employed veterinarian shall inspect the group of turtles or turtle eggs bound for shipment for visible signs of infections, contagious or communicable diseases. The veterinarian or designee shall randomly select turtles or eggs for submission to a certified laboratory for microbiological examination unless the turtles to be shipped are food turtles in which case the random selection of turtles and submission to a certified laboratory may be omitted.

3. - 4. …

5. The transportation to a certified laboratory for microbiological examination and handling of the samples of turtles and eggs shall be performed in such a manner as to maintain identity and integrity.

6. Licensed turtle farmers shall have the option of:

a. collecting samples under the on-site supervision of the department-employed veterinarian or designee; or

b. allowing the department veterinarian or designee to collect the samples.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2, 3:2358.9, 3:2358.10 and 3:2358.12.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:351 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1568 (August 2000), amended by the Livestock Sanitary Board, LR 31:

§2311. Microbiological Test Procedures

A. - C. …

D. All pet turtles that are on turtle farms operated by licensed turtle farmers shall originate from eggs that are produced on turtle farms operated by licensed pet turtle farmers and have been subjected to the egg immersion method of treatment. All turtles, other than those designated and shipped as food turtles, shall be randomly sampled and tested by a certified laboratory for *Salmonella.* The pond water in which food turtles are raised shall be tested at least once every year by a certified laboratory for *Vibria Cholera.*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.10.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:351 (April 1991), amended by the Department of Agriculture

and Forestry, Office of the Commissioner, LR 26:1570 (August 2000), LR 30:1445 (July 2004), amended by the Livestock Sanitary Board, LR 31:

§2313. Issuance of Health Certificates

A. Accredited Louisiana-licensed and department-approved veterinarians will issue official health certificates.

B. Health certificates shall not be issued on groups of turtles or eggs until the turtles or eggs and pond in which the turtles are raised have been inspected and tested as required by these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2, 3:2358.9 and 3:2358.10.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 17:352 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1570 (August 2000), amended by the Livestock Sanitary Board, LR 31:

§2321. Proper Disposal

A. Because of the danger posed by the emergence of bacteria resistant to antibiotics used to kill *Salmonella* and other harmful bacteria, licensed pet turtle farmers who use Garosol to treat turtle eggs and/or turtles shall follow approved disposal procedures, including but not limited to, the following:

A.1. - B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2, 3:2358.9 and 3:2358.10.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 17:353 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1571 (August 2000), amended by the Livestock Sanitary Board, LR 31:

Family Impact Statement

The proposed Rules in Part XXI. Chapter 23, Pet Turtles, should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

Interested persons should submit written comments on the proposed Rules to Dr. Maxwell Lea through the close of business on June 27, 2005 at 5825 Florida Boulevard, Baton Rouge, LA 70806. No preamble regarding these Rules is necessary.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Diseases of Animals—Pet Turtles

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

No implementation costs or savings to state or local governmental units are anticipated.

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

There is estimated to be no effect on revenue collections of the state or local governmental units.

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

There is estimated to be economic benefits to directly affected persons or non-governmental units. Farmers in the pet turtle industry will save approximately $1,190,000 annually industry wide in laboratory testing fees since 85 percent of the turtles are no longer required to be tested for *Salmonella*.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have an effect on competition and employment other than to benefit the pet turtle industry economically.

Skip Rhorer	Robert E. Hosse
Assistant Commissioner	General Government Section Director
0505#031	Legislative Fiscal Office

NOTICE OF INTENT

Department of Culture and Recreation
Office of State Parks

State Parks (LAC 25:IX.Chapters 1-9)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 56:1681-1690, R.S. 56:1801-1809 and R.S. 36:204., the Department of Culture, Recreation and Tourism, Office of State Parks proposes to amend current regulations in order to increase fees, perform general editing, add new items, and to purge those policy items that do not belong in the *Louisiana Administrative Code.*

Title 25
CULTURAL RESOURCES
Part IX. Office of State Parks

Chapter 1. General Provisions

§101. Definitions

A. As used by the Office of State Parks (OSP) in association with the operation of its holdings and public facilities.

Assistant Secretary the assistant secretary of the Office of State Parks, who is the executive head of the office and is appointed by the lieutenant governor with consent of the Senate. This officer is subject to the overall direction and control of the secretary of the DCRT while having direct responsibility for the policies of the OSP, and for the administration, control and operation of the functions, programs and affairs of the office.

Classification System the method of categorizing OSP sites based on purpose, selection, development and management criteria. The categories established by this system are state park, state historic site, and state preservation area. Use of these classification terms, in any official name or public or private lands or holdings is prohibited except when approved by the secretary of DCRT, and when such areas meet the classification criteria as identified in R.S. 56:1684.

Department of Culture, Recreation and Tourism (DCRT) a governmental agency duly created by the Louisiana State Constitution of 1974. This department is

responsible for planning, developing and implementing improved opportunities for the enjoyment of cultural and recreational activities by the people of Louisiana and for greater development of their cultural and physical potential. This department is responsible for the development, maintenance and operation of state libraries, parks, recreational facilities, museums and other cultural facilities. This department is also responsible for statewide development and implementation of cultural, recreational and tourism programs as well as planning for the future leisure needs of the people.

Office of State Parks (OSP) the office within the DCRT responsible for planning, designing, constructing, operating, interpreting and maintaining a system of parks, natural areas, historic sites and recreational facilities.

Secretary the secretary of the Department of Culture, Recreation and Tourism, who serves as the executive head and chief administrative officer of the department and is appointed by the lieutenant governor with consent of the Senate. This officer has responsibility for the policies of the department and for the administration, control and operation of the functions, programs and affairs of the department.

Site any holding of the Office of State Parks including, but not limited to state historic sites, state parks, state preservation areas, and special holdings.

State Historic Site (SHS) an official designation within the classification system of the OSP. State historic sites are areas with statewide historical, cultural or memorial significance.

State Park (SP) an official designation within the classification system of the OSP. State parks are natural areas which when evaluated on a statewide basis, possess outstanding scenic and natural qualities, as well as outstanding potential for recreation utilization.

State Preservation Area (SPA) an official designation within the classification system of the OSP. State preservation areas are unique natural sites preserved for future generations because of their exceptional scenic, ecological and biological values. Natural history education is the purpose of such areas and is accomplished through active interpretive programs, visitor centers, museums and trail systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690, R.S. 56:1801-1809 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:90 (February 1986), amended LR 19:308 (March 1993), LR 31:

Chapter 3. Rules and Regulations

§301. General Authority and Purpose

A. The following rules and regulations, procedures and fees replace, supersede and cancel all rules and regulations, procedures and fees adopted by the Office of State Parks prior to the effective date of these rules.

B. These rules and regulations are enacted by the Office of State Parks. Unless otherwise stated, the rules govern any and all sites under OSP jurisdiction pursuant to the authority given in Title 56, Chapter 6 of the Revised Statutes of 1950.

C. These rules and regulations are designed to provide the proper atmosphere for the enjoyment and protection of facilities and the safety of visitors.

D. The Office of State Parks' programs and activities are open to all qualified persons regardless of race, color, national origin, age or handicap. If anyone believes he or she has been discriminated against in any Office of State Parks' program, activity or facility, he or she may file a complaint alleging discrimination with either the Office of State Parks or the Office for Equal Opportunity, U.S. Department of the Interior, Washington, D.C. 20240.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 16:1051 (December 1990) , LR 31:

§303. Park Property and Environment

A. The provisions of the Louisiana Criminal Code (R.S. 14:1 et seq.) shall be enforced on all OSP sites.

B. No person shall intentionally remove, damage, disturb, or destroy any OSP property or the property of another person, without the consent of the owner. "Property" shall include but is not limited to structures, watercraft, movables, signs, markers, natural features, wildlife, and plants.

C. No person shall cut, destroy, or damage timber on any site, except as necessary to meet established management criteria, including insect control, public safety, and approved park construction. No timber cutting or removal may occur without the written permission of the assistant secretary or his designee.

D. No building, structure, or other feature of any site may be altered, erected, or constructed without written consent of the assistant secretary or his designee.

E. The assistant secretary shall, in consultation with the site manager, approve a carrying capacity for each OSP site. Once a carrying capacity has been reached, or when additional visitors would adversely impact the site, the site manager is authorized to close the site to incoming visitors.

F. Food, beverages, and smoking are prohibited in structures or areas containing historical furnishings or displays except in designated meeting rooms and assembly locations, or in conjunction with park programs.

G. No person shall excavate, remove, damage, or otherwise alter or deface any archaeological resource located on any site.

H. The display, possession, and/or use of metal detectors or similar devices is prohibited. It is strictly forbidden to dig for or otherwise remove any historical feature, relic or artifact. Persons wishing to excavate and remove historical features by professional archaeological means for research purposes must request a permit from the Louisiana Archaeological Survey and Antiquities Commission. Applications for such permits must be made through the assistant secretary, Office of State Parks.

I. No person shall plant material or otherwise introduce plant material on any site without the written approval of the assistant secretary or his designee.

J. Visitors to state historic sites are prohibited from leaving designated historic trails and may not walk on historic earthworks, fortifications, mounds or like features without specific permission of the site manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 19:308 (March 1993), LR 26:25 (January 2000), LR 27:1673 (October 2001), LR 31:

§305. Vehicle Use

A. The provisions of the Louisiana Highway Regulatory Act (R.S. 32:1 et seq.) and any rules and regulations promulgated thereunder shall be enforced on all OSP property.

B. Automobiles, trucks, motorcycles, bicycles, recreation vehicles, or any other wheeled vehicles must be operated only on those roads, lanes, or byways designated for vehicular traffic unless otherwise authorized by the site manager.

C. Vehicles, including recreational vehicles, motorcycles, and boat trailers, shall be parked only in designated parking areas unless otherwise authorized by the site manager.

D. No person shall operate a vehicle in excess of 15 miles per hour on any OSP property unless otherwise posted.

E. No motor vehicle shall be operated on OSP property without being properly licensed by the appropriate regulatory agencies. However, persons with mobility disabilities may use single-passenger, wheeled devices powered by electric motors wherever pedestrians are allowed. Multiple-passenger wheeled devices powered by electric motors (e.g,. golf carts) are permitted to transport persons with mobility disabilities between the disabled person's campsite and the bathhouse. The disabled visitor must be a passenger in the vehicle. Low-speed electric bicycles (electric motor of less than 750 watts, 1 h.p.) are treated like bicycles. As new wheeled devices powered by electric motors are developed, exceptions to this provision may be granted in advance on a case by case basis by the site manager or by policy approved by the assistant secretary

F. No person shall clean, service and/or repair any vehicle on OSP property except in emergency situations and in designated areas.

G. Vehicles will be considered abandoned if left unattended for more than seven consecutive days unless the proper permit or advanced written approval is granted by the site manager.

H. No person shall move or remove any barrier to gain access to a restricted area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 26:25 (January 2000), LR 31:

§307. Water Craft

A. Federal, state, and local laws, rules and ordinances related to the use of water craft shall be enforced. All water craft located on or adjacent to any site, must be operated in a careful and reasonable manner, and such operation is subject to the rules of safety imposed by the laws of Louisiana and by the United States Coast Guard.

B. Every owner and operator of a motor boat, vessel or other water craft shall comply with all flotation device requirements prescribed by state and federal law.

C. Boats shall be launched only from designated boat ramps or launching areas within a site.

D. A person renting a boat must return the boat to the original docking location after use, and secure the boat from unauthorized use.

E. No boat may be operated in a designated swimming area or in any other area designated as a non-boating area by signs or any area otherwise restricted from boat operation or docking.

F. Boats left docked and unattended must be properly secured in designated areas only. The Office of State Parks will not be responsible for any loss, theft or damage to boats, equipment, personal property or supplies left unattended.

G. Boats will be considered abandoned if left unattended for more than seven consecutive days unless the proper permit or advanced written approval is granted by the site manager.

H. Commercial boats (defined as any craft capable of carrying five or more persons for hire, any craft having a water displacement of five tons or more, whatever the length, or any craft from which commercial activities are conducted involving shrimping, crabbing, fishing, etc.) are prohibited from using any OSP facility without the written consent of the assistant secretary. Prohibited uses include, but are not limited to, loading or unloading of materials, boarding of persons, operating power equipment and non-emergency repair work.

I. Water bodies or portions thereof adjacent to boat ramps, docks, swimming areas, boathouses, cabins, picnic pavilions, or other facilities shall be designated No Wake Areas. Signs and/or buoys will mark the areas so designated.

J. Personal watercraft are prohibited at Poverty Point Reservoir, Chicot Lake and in any portion of any site posted as a "no ski zone."

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 26:26 (January 2000), LR 31:

§308. Poverty Point Reservoir State Park

A. All of the restrictions on and requirements for operating a water craft in Poverty Point Reservoir State Park listed in this section are in addition to those restrictions and requirements found elsewhere in these OSP rules and regulations. These rules apply only to Poverty Point Reservoir State Park's visitors. No part of this section however, shall be construed so as to nullify, in whole or in part, any other section of the OSP rules and regulations as they exist.

B. Boat owners and their invitees must enter the Marina from designated entry points.

C. Operation of vessels–Individuals are prohibited from all of the following:

1. operating a vessel at a speed greater than headway speed (i.e. the minimum speed required to maintain steering) within 50 feet of a shoreline, structures or swimmers;

2. operating a vessel at a speed greater than 20 mph or minimum planing speed (whichever is less) between sunset and sunrise;

3. operating a vessel where the idle volume is greater than 85 decibels. Further, if a vessel is equipped with an optional exhaust noise suppression device, the device must be engaged while the vessel is within a no-wake zone;

4. operating a vessel without a current day use receipt or Resident Boat Permit.

D. No person shall moor any vessel to any buoy or other man-made structure not specifically intended for mooring.

E. Skiing and/or towing of persons behind a vessel is prohibited outside of designated skiing areas.

F. Skiing and/or towing of persons behind a vessel is prohibited in all areas between one half-hour after sunset and one half-hour before sunrise.

G. Use of the Marina Complex. All visitors to the Marina Complex, whether boat owners or their invitees are prohibited from:

1. storing hazardous or flammable materials in the slip area (with the exception of normal fuel storage in moored vessels);

2. performing or allowing to be performed any major repairs or maintenance to a boat moored in the Marina. Major repairs or maintenance include any activities that pose a safety hazard or nuisance or infringe on the enjoyment of the Marina by others;

3. using any cooking appliances including, but not limited to, BBQ pits, fish fryers, meat smokers, seafood boilers, etc. in the Marina;

4. creating an open flame within the Marina;

5. painting or removing paint in the Marina;

6. fueling, or allowing to be fueled any vessel outside designated fueling areas;

7. playing or allowing to be played any video or audio equipment which can be seen or heard outside of the individual slip;

8. placing or allowing to be placed any antenna or other audio/video reception device which can be seen outside of the individual slip;

9. bringing pets into the Marina;

10. using the sewerage pump-out facilities without the assistance of OSP personnel.

H. All boat owners must complete and submit a signed Marina Slip Rental Agreement along with any required payments and/or deposits due prior to using a rental slip.

I. Maintaining the Marina Complex–Boat owners and their invitees shall be responsible for maintaining the Marina facilities available for their use. To that end, every boat owner and invitee shall:

1. remove all refuse from the boat and slip and place in the designated receptacles;

2. store hoses, shorelines, and other gear only in approved storage lockers;

3. place all storage lockers only on the end of dock fingers so as not to interfere with the view or access of other boat owners;

4. provide the park office with keys to both the storage locker and the boat to be used for emergency purposes only;

5. keep the bathroom and shower area clean;

6. report all maintenance and repair needs immediately to park personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 31:

§309. Horseback Riding, Livestock, Animals and Pets

A. Horseback riding is allowed only in specially designated areas and/or as part of special program events approved in advance by the assistant secretary.

B. Any pet brought on OSP property must be leashed, caged or crated. In all instances, leashes shall not exceed five feet in length. With the exception seeing-eye dogs, pets will not be permitted within buildings or other enclosed structures on site, nor will they be allowed near designated swimming areas and in overnight facilities. Owners of pets shall be fully responsible for any injury and/or damage caused by their pet.

C. No person shall allow his livestock to run or graze on any site, except in specially designated areas and/or as part of special programs or events approved in advance by the assistant secretary.

D. No pets are allowed on state preservation areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks in LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR 14:773 (November 1988), LR 26:26 (January 2000), LR 31:

§310. Litter, Sanitation and Health

A. All litter disposed of on site, shall be placed into a proper litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements upon OSP property or water bodies. Disposal means to throw, discard, place, deposit, discharge, burn, dump, drop, eject, or allow the escape of a substance.

B. No person shall drain or dump refuse waste from any trailer or other vehicle except in places or receptacles provided for such uses.

C. No person shall clean fish or other food, or wash clothing or articles of household use except in designated areas. No person shall clean, field dress, or have in open view on OSP property any harvested animal or animals.

D. No person shall discharge or allow to be discharged into any waters of the state any waste or substance of any kind that will tend to cause pollution of water used for human consumption or swimming.

E. All deposits of bodily wastes into or on any portion of a comfort station or other public structure, must be made in receptacles provided for that purpose. No person shall deposit any bottles, cans, cloth, rags, metal, wood, stone, or any other non-approved substance into any of the fixtures in such stations or structures.

F. No person shall use refuse containers or other refuse facilities for dumping household or commercial garbage or trash brought to a site.

G. No person shall bury garbage, litter, or dead animals on OSP property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 26:26 (January 2000), LR 31:

§312. Fires

A. Fires shall be built only in places specifically designated for that purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), repromulgated LR 31:

§313. Fishing, Hunting, Trapping, and the Use of Firearms or Fireworks

A. All wildlife (domestic and natural) in OSP sites is under strict protection and must not be hunted, molested,

disturbed, destroyed, or removed, except for scientific or management purposes when approved by the assistant secretary.

B. Bringing or keeping any hunting dogs on OSP property for the purpose of hunting inside or adjacent to a site is prohibited. The possession and/or use of any weapon, including but not limited to shotguns, rifles, pistols, and bow and arrows within a site is prohibited. This prohibition shall not apply to:

1. any law enforcement officer in the performance of his official duties;

2. historic weapons or reproduction historic weapons when used in accordance with department policies and procedures;

3. weapons kept unloaded in a case within a locked vehicle;

4. instances where the assistant secretary has granted special permission because the use of weapons will be used in a manner that furthers the purposes and objectives of the OSP.

C. No person shall possess, shoot, discharge or explode nor cause to be shot, discharged, or exploded any fireworks or other explosives on any OSP property without prior written consent of the assistant secretary or his designee.

D. The taking and hunting of frogs on any OSP property is prohibited.

E. Anyone fishing on OSP property must adhere to all state and federal laws and criteria regarding fresh and/or salt water fishing. The taking of fish by nets, traps or any means other than hook or line is prohibited at any and all sites, except for management purposes as authorized by special permit. Notwithstanding the previous provision to the contrary, the taking of flounder by gigs is permitted as well as the taking of fish by means of a yo-yo or trigger device (as defined in R.S. 56:8) in Chicot Lake at Chicot State Park subject to the following restrictions:

1. fishing with the use of yo-yos or trigger devices shall be permitted on Chicot Lake only from Nov. 1 through March 1 of each year;

2. not more than 24 yo-yos or trigger devices shall be allowed per boat;

3. each yo-yo must be tagged with the name of the responsible party, the registration number of the boat, and the date and time the yo-yo was set;

4. all yo-yos must be attended and re-tagged at least every 48 hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:773 (November 1988), LR 16:1052 (December 1990), LR 19:308 (March 1993), LR 31:

§314. Swimming

A. Swimming is permitted only in designated areas, and at the swimmer's own risk.

B. All children under 12 years of age must be accompanied by an adult at any swimming area.

C. The capacity of all pools and beach areas is determined, regulated and enforced by the site manager.

D. Glass containers of any kind are prohibited within any perimeter boundaries of pools, enclosed swimming areas, enclosed beach areas, and beach parks.

E. No food or drinks are allowed within enclosed pool and enclosed beach areas with the exception of concessions sold at the Bayou Segnette State Park wave pool.

F. Only Coast Guard approved Type I or Type II Personal Flotation Devices are allowed in swimming areas with the exception of flotation devices provided by the Office of State Parks at the Bayou Segnette State Park wave pool.

G. Swimming is prohibited at all beach parks between sunset and sunrise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 26:27 (January 2000), amended LR 31:

§315. Amplified Sound Equipment

A. No person shall play amplified musical instruments except when approved by the assistant secretary or his designee. No person shall play non-amplified musical instruments, radios, televisions, tape players and similar equipment in a manner that disturbs other visitors.

B. No person shall use any public address system~~s~~, whether fixed, portable, or vehicle mounted, without prior approval of the assistant secretary or his designee.

C. Remote public broadcast activities must be approved by the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), LR 31:

§317. Disorderly Conduct

A. Disorderly or boisterous conduct is forbidden.

B. The site manager and his designees are authorized to control the use and consumption of alcoholic beverages at a site. This includes the authority to prohibit the consumption of alcohol in designated areas within a site. The lawful consumption of alcoholic beverages may be allowed to the extent that such activity does not adversely affect the use and enjoyment of the site by other site users.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), LR 31:

§319. Business Activities

A. No one may sell or offer for sale any merchandise or service without the written consent of the assistant secretary or his designee.

B. No one may distribute, post, place, or erect any advertising device without the written consent of the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), LR 31:

§321. Fines and Enforcement of the Rules and Regulations

A. In addition to any other penalty provided by law, persons violating these rules and regulations are subject to: administrative fines for each violation of not less than $15 nor more than $250 (R.S. 56:1689), eviction from the site, and/or restitution to the state for damages incurred. If an individual is delinquent in paying for damage incurred, the agency reserves the right to refuse privileges to that individual pending receipt of such restitution.

B. Site managers and their agents, including rangers, watchmen, and guards, may be certified as "State Park Wardens." State Park Wardens, in addition to the authority otherwise conferred by law upon such officers, are vested with the same authority and powers conferred by law upon regular law enforcement officers of this state. State Park Wardens have specific authority and responsibility to enforce all rules, regulations, and laws within the limits of their jurisdiction.

C. No person shall enter a site:

1. when the site is closed; or
2. without proper registration.

NOTE: In addition to any penalties otherwise provided by law, any person violating this subsection will be subject to an administrative fine of not less than $25.

D. Site visitors may be required to furnish specific information upon registration, including but not limited to, vehicle license plate number, a driver's license number, state of residency, place of employment, and date of birth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), LR 27:1673 (October 2001), LR 31:

§329. Fees, Fines, and Enforcement of the Rules and Regulations

A. The use of certain sites and/or facilities is subject to charges which will be imposed by the manager according to the schedule of fees approved by Office of State Parks. The managers or their agents are responsible for the collection and enforcement of these fees.

B. The assistant secretary or his authorized agent may direct the closing of a site to public use when or if any natural or man-made occurrence has affected, or is expected to affect, the operation and management of the site to a degree that normal public use and enjoyment are altered, or when such use may impair the health, safety, and well-being of the public or employees of the agency.

NOTE: In addition to any penalties otherwise provided by law, any person violating this subsection will be subject to an administrative fine of not less than $25.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 19:309 (March 1993), LR 31:

§330. Day Use

A. Day-use facilities such as barbecue pits, tables, etc., which do not require prior reservations shall not be reserved by placing personal articles at these facilities prior to their immediate use. This includes firewood, ice chests, or any other personal property. The use of all such facilities is on a first come, first served basis.

B. The use of any facility in a site is subject to certain conditions or policies set down on an individual facility basis by the site manager. These conditions or policies must be approved in writing by the assistant secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 19:308 (March 1993), LR 26:28 (January 2000), LR 31:

§331. Overnight Use

A. General Provisions

1. Any overnight use of a site requires a written permit or cash receipt from the site. Overnight facilities are reserved for the exclusive use of persons properly permitted for the use of overnight facilities and their guests. An exception to this rule will be made for volunteers camping at a state historic site as part of an approved overnight encampment program.

2. Permittee may not transfer or assign any use permit nor sublet any facility or part thereof.

3. The site manager has the authority to require the registration of every person occupying a campsite or overnight facility.

4. Any permit may be terminated by the assistant secretary or by the site manager upon the violation of any established rule, regulation, or any condition of the permit.

5. Lock combinations on entrance gates are issued for the personal use of the permittee, who is prohibited from allowing others to use the lock combination, or otherwise making the facilities open so that others not covered by the permit may enter or leave the facility or area.

6. Established time schedules (check-in and check-out) are strictly enforced. Failure to comply without advanced approval of the park manager may result in additional charges and denial of any future use of the facility.

7. Overnight users must maintain a reasonably quiet facility between the hours of 10 p.m. and 6 a.m.

8. Overnight users shall not erect or display unsightly or inappropriate structures or features which, in the opinion of the site manager, may create a disturbing or otherwise unpleasant condition detrimental to the general site use.

9. No permittee may repair or install any site equipment or furnishings unless authorized and supervised by the site manager.

10. No person shall be permitted to reside at any OSP site.

11. Parking for boat trailers and additional vehicles may be allowed at the discretion of the site manager or his designee, subject to individual site suitability for such purposes.

12. Permittees waive and release all claims against the state of Louisiana for any damage to person or property arising from the privileges granted by any use permit.

B. Camping

1. With the exception of a campground host, overnight camping and group camp, lodge and cabin use are limited to 15 consecutive days. After 15 consecutive days of occupancy at a site, the visitor must vacate the site for seven consecutive days before occupancy may be resumed. No

person shall occupy a campsite for more than 23 days in any 30 day period. However, at the site manager's discretion, and subject to availability, overnight camping may be extended on a weekly basis. No campsite may be vacated for longer than a 24-hour continuous period under any permit agreement.

2. OSP campgrounds are intended for tents and recreational vehicles only.

3. Campsite occupancy is limited to six persons. At designated group camping areas occupancy limits are set by the site manager or his designee.

4. Campsite configurations within the system vary in size, length, and surfacing materials. Camping spurs are designed to accommodate one camper/pop-up trailer with tow vehicle or one motorized camper and additional vehicle. Additionally, many sites will have designated tent pads adjacent to the spur. The site manager or his designee will have the authority to evaluate additional possible combinations for on site approval. Due to the numerous possible potential combinations, the following are to be used as general guidelines subject to variance by the site manager or his designee:

a. one camper trailer with tow vehicle (may include pickup camper), one large tent or two small tents;

b. one motorized camper with additional vehicle (may include pickup camper), one large tent or two small tents;

c. one pop-up camper with two vehicles (may include pickup camper), one large tent or two small tents;

d. one pickup camper with additional vehicle, one large tent or two small tents;

e. two vehicles and tent combinations not to exceed three tents.

5. The following camping combinations are applicable only to Grand Isle State Park:

a. one passenger vehicle and two tents (family unit only);

b. one passenger vehicle and one camping trailer;

c. one van-type camping vehicle and one tent;

d. one van-type camping vehicle and one camping trailer;

e. one pickup truck camper and one tent;

f. one pickup truck camper and one camping trailer;

g. one motorized camper (or bus) and one passenger vehicle;

h. in the north camping area, registered campers are allowed to bring a maximum of two vehicles and a maximum of six persons per campsite.

6. Beach campsites cannot be reserved.

C. Cabins, Lodges, Other Overnight Facilities

1. A written inventory of movable equipment and furnishings is posted in each overnight structure or will be furnished to the visitor. It is the visitor's responsibility to check the inventory immediately upon occupancy. The visitor must report to the site manager any discrepancy between the actual inventory and the printed inventory. The visitor may be assessed the cost of items which, if not reported as missing or damaged upon occupancy, are missing or damaged when the structure is vacated. Failure to reimburse the Office of State Parks for any missing property or damage to property may result in denial of future use of OSP facilities.

2. Facility furnishings shall not be moved without the permission of the site manager.

3. Upon termination of any use permit, the facility must be vacated in good repair and in the same condition in which it was occupied. Where applicable, all doors and windows will be closed, all water taps shut, and all fires extinguished. Permittees will be responsible for any and all damages resulting from their use of the facility. Failure to comply may result in denial of future use of OSP facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1053 (December 1990), LR 19:308 (March 1993), LR 26:28 (January 2000), LR 27:1673 (October 2001), LR 31:

§333. Boundary Designation/Property Posting

A. The boundaries of all lands under the jurisdiction of the Office of State Parks shall be posted, except where posting is deemed unnecessary. Posting may be deemed unnecessary where any of the following conditions are met:

1. where OSP properties are bounded by public roadways;

2. where OSP property boundary is defined by a waterway;

3. where fencing or other fixtures that clearly delineate the property line are already present;

4. where the visual aesthetics would be destroyed or impeded.

B. For the purpose of establishing proper posting requirements for the different types of OSP properties, the following definitions are adopted:

Developed Property areas administered by Office of State Parks which are operated in whole or part for public use and benefit.

Undeveloped Property areas administered by the Office of State Parks which are not operated for public use and benefit. Such areas are usually acquired for future use and development by the agency.

C. Criteria for Posting and Establishing Boundaries

1. Except where posting is deemed unnecessary, boundaries of developed property shall be posted as per the following requirements.

a. The Office of State Parks shall place or cause to be placed and maintain signs along the boundaries of such property, which sign shall be written in the English language and shall contain the following wording: "posted," the characters of which shall be at least four inches in height, followed by the words: "Office of State Parks," the characters of which shall be at least 1 inch in height, followed by the words: "Do Not Enter except at Public Access Points," the characters of which shall be at least 1/2 inch in height.

b. The color of such signs shall be yellow background overprinted in black characters.

c. The Office of State Parks shall place and maintain such signs along the boundary of all developed property at intervals of not more than 1/8 mile. Such signs shall face in a direction so as to be visible before entering upon state parks' property.

d. Such signs shall be placed on trees, posts or other supports at a distance of at least 3 feet above ground level and not more than 10 feet above ground level.

e. Public access points to developed areas shall be clearly identified with entrance signs or other obvious means of establishing public entry.

2. Except where posting is deemed unnecessary, boundaries of undeveloped property shall be posted as per the following requirements.

a. The Office of State Parks shall place or cause to be placed and maintain signs along the boundaries of such property, which sign shall be written in the English language and shall contain the following wording: "posted," the characters of which shall be at least 4 inches in height; followed by the words: "no hunting, no trespassing, Office of State Parks" the characters of which shall be at least 1 inch in height.

b. The color of such signs shall be yellow background overprinted in black characters.

c. The Office of State Parks shall place and maintain such signs along the boundary of all undeveloped property at intervals of not more than 1/8 mile. Such signs shall face in a direction so as to be visible before entering upon state parks' property.

d. Such signs shall be placed on trees, posts or other supports at a distance of at least 3 feet above ground level and not more than 10 feet above ground level.

3. In areas such as marsh lands or where boundaries occur over water bodies, signs shall be placed at major points of ingress to the area.

D. Penalties

1. Any person entering any OSP site except at designated public access points or unless possessing written permits or permission from authorized agents of state parks shall be cited for criminal trespass violations and shall be subject to administrative fines for each such violation of not less than $15, nor more than $250 (R.S. 56:1689).

2. Any person who removes, destroys or willfully damages any posted signs as herein described or relocates such signs from its original location shall be subject to fines for each such violation of not less than $15 nor more than $250 (R.S. 56:1689).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 11:100 (February 1985), amended LR 12:89 (February 1986), LR 31:

Chapter 5. Procedures and Fees

§500. Fees and Exemptions; Day-Use Fees

A. State Parks General Admission Day-Use Entrance Fees

1. A day-use fee is charged at all State Parks (except St. Bernard State Park).

a. Persons in noncommercial vehicles are charged one dollar per person per day.

b. Walk-in visitors and visitors on bicycles are charged $1 per person for the day.

c. Children age 3 and under are free. Seniors age 62 and older are free.

d. Buses used as public conveyances are charged $60 per day. For the purpose of this rule, buses, whether privately or commercially owned and operated, shall be considered any conveyance which is capable of transporting 20 or more individuals. Discounts or exemptions to which bus passengers would otherwise be entitled are not applicable to bus passengers unless prior approval has been granted in writing by the assistant secretary subsequent to verification that the entire group is composed of senior citizens, veterans, or other individuals entitled to a discount or fee exemption.

2. All prices include state and local taxes. In any cases where entrance fees are charged, there is no additional charge for the use of picnicking (except group shelters when reserved for exclusive use), boat launching, or swimming facilities (exception: St. Bernard State Park and Bayou Segnette State Park).

a. St. Bernard SP swimming pool fee is $2 per person.

b. Bayou Segnette SP wave pool fee (in addition to the park entrance fee and all other user fees) is: adults (over 48 inches) $8 per day, children (under 48 inches) $6 per day. The price includes one flotation device per person. Discount coupons are available when purchased in quantity lots.

3. A self-service fee system may be used to collect user fees on areas normally served by an entrance control station. During these times all reservation guests or others requiring registration shall sign in at the office during the normal business hours or with a ranger placed in the entrance station at hours when the office is not operated.

4. Dump Station Use. Users with recreational vehicles who desire to utilize only the pump station facilities on any state park shall be charged the day use entrance fee. Discounts are not applicable to this use.

B. State Historic Sites General Admission Fees

1. An admission fee of $2 per adult is charged for all state historic sites except Locust Grove and Los Adeas which have no admission fee, and Rosedown Plantation as provided in subsection 4. There is no admission fee for children age 12 and under or seniors 62 and older at any state historic site except Rosedown Plantation as provided in Paragraph 4.

2. Admission entitles visitors to all facilities and regular programs that may be offered at the historic site. Special programs and events may include special admission rates.

3. The payment of the admission fee at one historic site entitles guests to enter all historic sites (except Rosedown Plantation) on the same day with no additional charge. Payment of the admission fee at one historic site entitles same day guests at Rosedown Plantation to a $2.00 discount off the Rosedown Plantation admission fee). The receipt from the first site must be presented for admission to subsequent sites.

4. Rosedown Plantation State Historic Site

a. Charges for admission to the plantation house and the gardens surrounding the house at the following rates:

$10 per adult (ages 18 to 61)
$8 per senior citizen (ages 62 and over)
$4 per student (ages 6 to 17)
FREE for children (ages 5 and under)

b. Charges for admission to the gardens only at the following rates:

$5 per adult (ages 18 to 61)
$5 per senior citizen (ages 62 and over)
$4 per student (ages 6 to 17)
FREE for children (ages 5 and under)

5. Organized groups of 10 or more are requested to notify the site manager in advance of their arrival. There is no additional fee for SHS visitors arriving by bus.

C. State Preservation Areas General Admission Fees. An admission fee is not currently charged at the state preservation areas in operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 19:309 (March 1993), LR 26:29 (January 2000), LR 27:1673 (October 2001), amended LR 31:

§501. Fees and Exemptions; Miscellaneous Services and Facilities Fees

A. Boating

1. Rental boats, including flat bottom, motor, canoes, and kayaks, are available at most parks. The use of motors on these boats is limited to the manufacturer's recommended horsepower capacity.

2. The standard rate for rental flat bottom boats with three life jackets and two paddles is $15 per boat per day. Additional life jackets are available at a rental fee of $1 each per day.

3. Canoes may be rented for $20 per canoe, per day. A canoe float trip is charged $25 per canoe, per trip. Kayaks may be rented for $30 per kayak, per day. All fees include paddles and life jackets.

4. At some sites rental boats, kayaks, canoes and other water vessels may be available through the park or through a concessionaire. Visitors should contact the site to check availability and rates.

B. Bicycles. Bicycles may be rented for $5 per hour.

C. Marina Boat Slips. Boat slips in the Poverty Point Reservoir State Park marina are available for $12 per night or, under an annual contract, for $50 per month.

D. Group Rental Pavilions

1. Group rental pavilions are available at most state parks and state historic sites. The rental rate varies, depending upon the size and location.

2. Exclusive use of a group pavilion can only be made by a rental permit and payment of a rental fee. These group pavilions can be reserved in advance with payment of the rental fee.

3. Reserved pavilions will be posted, indicating the name of the party and date of use. When such pavilions are not so posted or reserved, they are available to the site visitors on a first come, first served basis.

4. In addition to the rental fee, users of the reserved group pavilions will also be charged the normal day-use entrance fee to the site.

5. The carrying capacity of a group rental pavilions is based on its size, facilities and available parking, and may not be exceeded as determined by the site manager.

6. a. Type I Pavilion. These pavilions, usually located in the day-use area, accommodate a standard of 40 people. Reserve rental rate is $40 per day.

b. Type II Pavilion. These pavilions, usually located in the day-use area, accommodate 60 people. Reserve rental rate is $60 per day.

c. Type III Pavilion. These pavilions are usually separated from the day-use area, affording more group privacy than the other pavilion types. They may accommodate 100 people. Reserve rental rate is $100 per day.

E. Meeting Rooms. Meeting rooms used to accommodate meetings and functions of private groups, clubs and other organizations are available during normal park operating hours. Kitchen facilities may be used, if available. Meeting room rates are as follows.

$100	Type I e.g., Bayou Segnette, North Toledo Bend, Lake D'Arbonne
$150	Type II e.g., Chemin-à-Haut, Chicot
$200	Type III e.g., Lake Fausse Pointe

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:637 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:

§502. Fees and Exemptions; Exemptions/Discounts

A. Disabled Veterans. A special Veteran Entrance Permit allows any disabled U.S. veteran and any person(s) accompanying him in a single, private, non-commercial vehicle exemption from the entrance fees only at those sites which collect such fees through a vehicle permit. Where individual fees are charged only those properly recognized disabled U.S. veterans are exempt. Applications for a veteran permit may be made to the Louisiana Department of Veterans' Affairs Service Office serving the parish in which the applicant resides. After certification of eligibility has been established by the Department of Veterans' Affairs, the assistant secretary of the Office of State Parks will issue a permit directly to the applicant.

B. School Groups. Any child who is on a field trip conducted as part of the curriculum of the school and any classroom teacher, parent, bus driver and any other person accompanying a school child on such a field trip are exempt from paying the general admission charge to any site.

C. Golden Access Passport. Any citizen of the United States who possesses a Golden Access Passport issued by any agency of the United States, pursuant to 16 U.S.C. Section 460 L-65, upon presentation of the Golden Access Passport and proper identification to any state park authorities, shall be exempt from the day-use entrance fee to any Louisiana state park. On areas where individual day-use fees are charged, the exemption shall apply only to the passport holder; however, where vehicle permits are utilized, the exemption shall apply to the permit holder and each occupant accompanying the permit holder in the same private non-commercial vehicle.

D. Non Profit Community Home Based Organization. Any child age 18 or under who is retained in the legal

custody of the state through a bona fide contractual service agreement with a public, non-profit community home based organization or "provider" shall be exempt from paying the general day-use entrance fees or any other day-use fee at any site. Such use must be in conjunction with an organized group outing or event sponsored and supervised by the public, non-profit organization or "provider."

1. Certification of the eligible organization or "provider" must be made in writing to the Office of State Parks, and the agency shall in turn recognize such certification prior to eligibility for this exemption.

2. This exemption shall not be applicable to day-use functions at any state park overnight facility such as group camps, cabins, campgrounds, etc.

E. Annual Day Use Permits

1. Permits are available at a cost of $50 per year. This permit, in the form of a wallet I.D. card, allows the holder individually or as a passenger in a single, private non-commercial vehicle entry to all sites in lieu of the normal day-use fee. All people accompanying a permit holder as occupants in a single, private non-commercial vehicle in which the permit holder is a passenger or driver are also admitted without charge.

a. The wallet permit may be exchanged for a vehicle decal which shall be permanently affixed to a vehicle, if this is a more convenient permit arrangement.

b. The Annual Day-Use Permits are valid for a period of one year beginning January 1 and ending December 31 annually. Permits may be obtained at any site.

2. The Annual Day-Use Permits are valid for exemption of the general admission day-use charge only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:637 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 19:309 (March 1993), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:

§503. Fees and Exemptions; Special Promotions

A. From time to time, as deemed appropriate by the assistant secretary, special programs, occupancy regulations, discounts or waivers on user fees may be offered in order to encourage visitation. These special promotional offers must be reviewed and reauthorized annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:637 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:

§504. Fees and Exemptions; Overnight Use

A. Camping

1. An improved campsite rents for $16 per night. An unimproved campsite rents for $12 per night. A premium campsite rents for $18 per night. For information regarding campsite reservation fees, see Reservation Policy, §505.

2. Each campsite is restricted to use by one camping unit.

3. Designated primitive areas accommodating organized groups (Boy Scouts, Girl Scouts, etc.) are available for camping at $1 per person, per night. Capacity will be set by the site manager.

B. Rally camping areas are those designated and reserved for use by organized groups of overnight campers. These areas differ from the normal state park campgrounds since they are available for group use only.

1. Fees–Rally Camping

a. A fee of $50 per night is assessed to the group for the exclusive use of the area, and each individual camper rig is also charged the improved campsite rate.

b. The day-use fee for a rally campground is $50 per day for the group, and in addition, the standard day-use entrance fee is charged per vehicle.

2. Carrying Capacity. A maximum carrying capacity for rally areas is established by individual site managers, and information concerning these capacities is available through the individual site offices.

C. Backpacking

1. Backcountry camping or backpacking is defined as camping in undeveloped areas of a site, where there are no designated campsites and no facilities provided. These areas are reached by backpacking or by non-motorized boats.

2. Backpacking is available only at Chicot State Park. A permit is required for all overnight backpacking use and may be obtained at the park entrance station.

3. Each person will be assessed a fee of $1 per night. A copy of the backpacking regulations can be obtained at the park entrance station.

D. Canoe Camping

1. Canoe camping at primitive campsites is available at Lake Fausse Pointe State Park and Lake Claiborne State Park. The unimproved campsite rental fee of $12 is charged for use of these areas.

E. Cabins and Lodges

1. Cabins

Classification	Overnight Rate	Bedding Accommodations	Maximum Capacity
Deluxe	$90	6	8
Standard	$70	4-6	6-8

2. Park Lodges. These are large overnight structures equipped with kitchen, bath and sleeping facilities and can accommodate a large family or several family groups.

Classification	Overnight Rate	Bedding Accommodations	Maximum Capacity
Standard	$125	varies	varies
Deluxe	$150	14	16

F. Group Camps. Group camps are available at certain parks for organized group use. The capacity, type of facility, and rates are as follows.

Classification	Overnight Rate	Maximum Capacity
Class III	$400	100+
Class II	$200	50+
Class I	$150	30+

1. Group camps may be reserved for day or overnight use at a basic rate.

G. Special Research Dormitory Facilities

1. Purpose. The primary purpose of the research dormitory is to provide living space and sleeping accommodations for professional researchers and students who are actively conducting on-site research. The dormitory

can be used on a first come, first served basis by other individuals who meet the requirements as set forth in this policy statement.

2. Eligible Users. The dormitory is available to college students, professional archaeologists and other scientists and professionals who are studying the site and/or actively conducting research which relates to or directly involves the site or nearby sites of significance.

Requests for use of the dormitory by individuals or groups not meeting the above criteria will be reviewed to determine merit and appropriateness.

3. Application Process. Requests for use of the dormitory must be made by letter addressed to the site manager. The site manager and the assistant secretary will review the request and respond in writing to the applicant.

4. Facility Use Agreement

a. All parties granted permission to use the dormitory must execute a Facility Use Agreement.

b. The user must execute the agreement and return it to the site manager before occupying the dormitory.

5. Research Dormitory Fees. All user groups, unless otherwise authorized by the assistant secretary, will be required to pay a $100 per night fee for overnight use. The rental fee must be received within 10 days after the user receives written approval to use the dormitory.

6. Research Dormitory Occupancy Requirements

a. Registration with the site manager is required of all boarders before occupying the dormitory. This information will include name, organization, address, and home or business phone numbers.

b. Keys to the dormitory can be obtained from the site manager. One group leader will assume responsibility for the keys and return them to the manager before leaving.

c. General cleanup of this facility will be the responsibility of the user. The user will follow established cleanup and housekeeping procedures distributed by the manager.

d. Research dormitory check-out time is 2 p.m.

7. Special Conditions. All programs and activities conducted by groups or individuals using the dormitory must be approved in writing by the site manager.

8. The site manager has the administrative responsibility for all matters relating to the daily operation of the dormitory building and site facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:638 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 26:30 (January 2000), LR 27:1674 (October 2001), LR 31:

§505. Reservation Policy

A. General Provisions

1. Reservations may be made for all OSP facilities that are subject to reservation, by calling the State Parks Reservation Call Center. Overnight and day-use facilities, including cabins, lodges, group camps, camping sites, rally shelters, meeting rooms and pavilions may be reserved 11 months in advance. For example, if a park user wants to use a facility on July 2, he may make the reservation no earlier than August 2, or the first business day after August 2, of the prior year.

2. The call center will operate 8 a.m. to 4:30 p.m., Monday through Friday. The call center will close for state holidays. Based upon demand, the center's hours may be extended by the assistant secretary or his designee.

3. Reservations are accepted only from persons 18 years of age or older. All persons under 18 years of age must be accompanied by adults when using reserved facilities.

4. Deposit in full must received within 10 days of the date the reservation is made otherwise the reservation is canceled. Payment may be made by credit card, in-state personal check or money order. If the reservation is made within 14 days or less of the usage date, payment shall be by credit card only.

5. A cancellation of a reservation initiated by the site user is subject to a surcharge. The cancellation fee is a minimum of $10 per facility. If the reservation is canceled within 14 days of the first day of intended use, the cancellation fee is the cost of one day's stay or $10 per facility, whichever is more. A transfer of reservation dates will be treated as a cancellation and a new reservation, and is therefore subject to the cancellation surcharge. There is no charge to transfer a reservation from a facility to the same type of facility located within the same site. Requests for waivers of the cancellation fee must be made in writing to the assistant secretary or his designee and will be granted only for extreme situations.

6. In the event reservations must be canceled for maintenance or emergency reasons by OSP staff, the rental fee will be refunded in full.

7. For cabins, lodges, group camps, rally shelters and campsites a two-day minimum reservation is required for weekends. The minimum may be met by reserving the facility on Friday and Saturday nights, on Saturday and Sunday nights or for all three nights. If facilities are not reserved in advance, they may be rented on weekends for one night to walk-up users using the facilities that day. Exceptions may be granted by the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1693 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:640 (December 1982), amended LR 12:89 (February 1986), LR 14:777 (November 1988), LR 16:1051 (December 1990), LR 26:32 (January 2000), LR 27:1674 (October 2001), LR 31:

§506. Refunds

A. Refunds will not be issued to visitors evicted for enforcement or disciplinary reasons.

B. Fees paid on-site may be refunded on-site upon approval of the site manager or his designee for the following reasons:

1. in emergency situations where the site must be closed due to natural or man-made emergencies (water shortage, fire, weather, and equipment failure);

2. when a user chooses to leave a site before use of any facilities;

3. when the user chooses to leave a site before utilizing rental facilities for the total reservation period, the unused reservation period amount will be refunded minus the cancellation fee detailed in §505.A.5. This rule however, does not provide for refunds during weekends which require a minimum reservation period.

C. All site-issued refunds will require that the visitor present a valid paid receipt for the amount of the requested refund.

D. All advance reservation refunds must be issued through the administrative office in accordance with §505.A.5.

E. Temporary visitors passes are available for the purpose of inspecting the site facilities prior to an anticipated visit.

F. Refunds of day use fees are not granted when a visitor, by his own choosing, leaves the site due to inclement weather.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 26:32 (January 2000), LR 31:

§507. Special Uses and Restrictions

A. Special Use. Any function requiring special or restricted use of any facility or area within an OSP site must be approved by the assistant secretary and the fee for such will be computed on a negotiated rate unless otherwise established. Written request for special use of a facility must be received at the Office of State Parks, Box 44426, Baton Rouge, LA 70804-4426 at least 30 days prior to the scheduled event. No telephone requests are accepted.

B. Use Restrictions

1. Activities and uses of state historic sites are limited to those appropriate to the significance of each site as defined by the master plan and interpretive prospectus of the unit.

2. It is necessary that development on a state historic site be limited to that which is essential for visitor accommodation and enjoyment of the area's theme or feature. Day-use facilities will be limited to activities that do not conflict with the historical theme of the site, and confined to section(s) set aside for such purposes. Historic zones will be established to protect the resource and insure appropriate use of each state historic site. Space outside of the historic zone(s) and maintenance area(s) may be set aside for recreational use at the discretion of the site manager.

3. The atmosphere created on the historic site is as important as the artifactual evidence. In order that the greater interest and primary function of the area be served, it is necessary to restrict certain incompatible activities from the sites. Any sport or recreational activity that does not contribute to a greater understanding of the theme of the area is prohibited within all historical zones of any state historic site. Recreation zones appropriate for such use may be designated by the site manager if space permits. No organized league activities will be allowed on the grounds of any state historic site.

4. It has also been determined that the use of state historic sites for such activities and events as fairs, circuses, carnivals, amusement rides, and other promoter sponsored, commercial activities and events is not deemed in the best interest of the state historic sites. Such uses fail~~s~~ to achieve the intent outlined in the preservation purpose and may increase the potential for serious damage to the quality and character of the area, adversely affecting the experience of the visitor. However, at Rebel State Historic Site, musical events sponsored by promoters will be permitted with the approval of the assistant secretary or his designee.

5. Organizations, such as historical societies, friends groups or service groups, offering support to any OSP site, may be permitted to conduct special functions at a site if a written request is made and written permission is obtained from the assistant secretary. Such functions may not be specifically for the benefit of an individual, but must be held to benefit the site, either directly or indirectly, by generating greater public awareness of the site or of the area's history, or to assist the agency in the fulfillment of its mission and purposes.

C. Passenger Bus Restrictions

1. In an effort to facilitate control of the day-use carrying capacity for OSP sites, no buses nor occupants thereof shall be admitted to OSP sites for any day-use activities on weekends or holidays during the period Memorial Day weekend through Labor Day, except by special permit. This restriction shall not apply to state historic sites.

2. Special Bus Use Permits. Any access to OSP sites (excluding state historic sites), by bus transportation on weekends or holidays during the period between Memorial Day and Labor Day will require a special bus use permit. The application for the permit must be submitted to the site manager at least three days prior to the proposed use date along with the group's proof of $1,000,000 liability insurance and proof of $500,000 automobile or bus liability insurance. Children traveling to OSP sites must be chaperoned by adults. The permit, if approved, does not cover other special day-use charges (rental pavilions, etc.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:779 (November 1988), LR 19:313 (March 1993), LR 26:32 (January 2000), LR 27:1674 (October 2001), LR 31:

Chapter 9. Division of Outdoor Recreation Administration

§900. Definitions

A. As used by the division of outdoor recreation:

Assistant Secretary of the Office of State Parks designated as the authorized representative of the State of Louisiana under the Land and Water Conservation Fund Act (16 U.S.C. §§4601-4 to 4601-11), which position is referred to as "state liaison officer" and which federal act is hereinafter called "Act", and is directed to utilize the Statewide Comprehensive Outdoor Recreation Plan (SCORP) in carrying out the authority vested in said office, it being the intention that any action taken by the state liaison officer be pursuant to and in compliance with the plan. Acts 1980, Number 827, §2. Amended Acts 1982, Number 329, §2, eff. July 18, 1982.

Department the Department of Culture, Recreation and Tourism (DCRT).

Division of Outdoor Recreation (DOR) the functional subunit of the Office of State Parks responsible for development, promotion and implementation of the Land and Water Conservation Fund and Urban Parks and Recreation Recovery Act programs.

Land and Water Conservation Fund (LandWCF) Grants 50 percent matching grants made by the U.S. Department of the Interior under the Land and Water Conservation Act of 1965, as amended (16 U.S.C. §4601 et seq.) to the state of Louisiana and through the state to political subdivisions for the purpose of acquiring and developing outdoor recreation areas and facilities.

Land and Water Conservation Fund (LandWCF) Grants Manual sets forth the administrative policies, procedures and guidelines for LandWCF grants awarded to the states by the Department of the Interior, National Park Service.

Office of State Parks (OSP) that office in the Department of Culture, Recreation and Tourism which administers the U.S. Department of the Interior's Land and Water Conservation Fund Act of 1965 and Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. §2501 et seq.).

Outdoor Recreation-A Project Handbook summarizes the rules and regulations as set forth in the *LandWCF Grants Manual* and sets forth the policies, procedures and guidelines for making application, implementation and post completion grant requirements.

Park includes land and water parks owned or operated or proposed for ownership, development and operation by the political subdivision which are set aside by a public entity for public recreational use.

Political Subdivision a parish, city or other governmental entity with the legal authority to establish and/or operate parks and recreation areas.

State Application the information and documents which must be provided by the applicant in sufficient detail to allow the DOR staff to prepare the federal application forms for a LandWCF grant.

State Liaison Officer (SLO) the liaison official appointed by the governor to represent the state in matters dealing with the U.S. Department of the Interior's Land and Water Conservation Fund and the Urban Park and Recreation Recovery Act of 1978.

State Parks and Recreation Commission (SPARC) the commission whose purpose is to promote the goals and objectives of the Office of State Parks and to act in an advisory capacity to that office, the assistant secretary of that office, and the secretary of Culture, Recreation and Tourism on matters relating to parks. The commission shall also cooperate with political subdivisions of the state when officially requested.

Statewide Comprehensive Outdoor Recreation Plan (SCORP) a prerequisite for eligibility for LandWCF assistance for acquisition or development grants, identifies capital investment priorities for acquiring, developing and protecting all types of outdoor recreation resources within a state, assures continuing opportunity for local units of government and private citizens to take part in their state's outdoor recreation and environmental planning programs, and provides a practical tool for coordinating all state outdoor recreation and environmental conservation programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690, R.S. 56:1801-1809 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:90 (February 1986), amended LR 19:308 (March 1993), LR 31:

§901. Land and Water Conservation Fund Program Summarized [1]

A. Purpose. The Land and Water Conservation Fund (LandWCF) Act of 1965 (Public Law 88-576, 78 Stat 897) was enacted "... to assist in preserving, developing and assuring accessibility to all citizens of the United States of America of present and future generations ... such quality and quantity of outdoor recreation resources as may be available and are necessary and desirable for individual active participation ..." The LandWCF program provides matching grants to states, and through the states to local governments, for the acquisition and development of public outdoor recreation areas and facilities. Planning grants are also available to the states to help develop Statewide Comprehensive Outdoor Recreation Plans (SCORP).

B. Delegation of Authority. The LandWCF Act authorizes the secretary of the interior to provide financial assistance to states for outdoor recreation purposes. Except for the apportionment of funds among states and the approval of contingency reserve projects, this authority has been delegated to the director of the National Park Service (NPS). The regional directors are authorized to exercise the full program and administrative authority of the director within the geographic area comprising the region for which they have responsibility. Limitations to this delegation include the director's authority to act on all recommendations to the secretary involving the apportionment of LandWCF monies and the allocation of Contingency Reserve Fund assistance; and to approve or disapprove formal arrangements whereby the state agrees to assume certain responsibilities in the administration of the LandWCF program.

C. Appointment of State Liaison Officer. To be eligible for assistance under the LandWCF Act, the governor of each state shall designate, in writing, an official who has authority to represent and act for the state as the state liaison officer in dealing with the director of NPS for purposes of the LandWCF program. The state liaison officer (SLO) shall have the authority and responsibility to accept and to administer funds paid for approved projects. Upon taking office, a new governor shall officially, in writing, redesignate the present state liaison officer or appoint a new individual to represent and act for the state in dealing with the LandWCF program.

D. Apportionment of Funds. LandWCF monies are apportioned to the states by the secretary of interior each fiscal year in accordance with the apportionment formula contained in the LandWCF Act. This formula includes a factor for equal distribution of a portion of the funds among the states, as well as factors for distribution on the basis of population and need. Funds are apportioned to the individual states, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the government of the Northern Mariana Islands (when such islands achieve commonwealth status), which are collectively referred to as "the states" for the purposes of this program. Funds may be made available through the states to political subdivisions of the state and other appropriate public agencies, including recognized Indian tribes which otherwise qualify for LandWCF assistance.

E. State Planning Requirements. To be eligible for LandWCF assistance for acquisition or development grants, each state shall prepare a Statewide Comprehensive Outdoor Recreation Plan (SCORP), and update and refine it continually. The SCORP identifies capital investment priorities for acquiring, developing, and protecting all types of outdoor recreation resources within a state; it assures continuing opportunity for local units of government and private citizens to take part in their state's outdoor recreation and environmental planning programs; and it provides a practical tool for coordinating all state outdoor recreation and environmental conservation programs. Planning grants and technical assistance are available through the LandWCF program to help the states develop and update their SCORP planning process.

F. Acquisition and Development Grants. LandWCF assistance may be available:

1.a. to acquire lands and waters or interests in lands and water for public outdoor recreation; and

b. to develop basic outdoor recreation facilities to serve the general public.

2. To be eligible for assistance, projects must be in accord with the Statewide Comprehensive Outdoor Recreation Plan, be sponsored by a governmental agency, and meet other state and federal requirements.

G. Contingency Reserve Fund. A small portion of the fund is set aside in a Contingency Reserve Fund from which the secretary of interior may obligate assistance to individual projects on the basis of need.

H. Basis for Assistance. LandWCF assistance is provided on a 50/50 matching basis to individual projects which are submitted through the state liaison officer to the National Park Service for approval. Project costs shall be determined in accord with OMB Circular A-102 and A-87, the LandWCF Grants Manual and all claims shall be subject to verification by federal audit conducted in accordance with OMB Circular A-128.

I. Project Program Administration. The state liaison officer is responsible for administration of the LandWCF program in his/her state. This includes implementation of an ongoing SCORP planning process; evaluation and selection of projects in accord with an Open Project Selection Process; assuring compliance of projects with the requirements of this LandWCF Grants Manual; preparation and submission of applications, amendments and billings; inspection of projects to insure proper completion, operations and maintenance; and other functions necessary for proper program administration and management.

J. Conversion Policy. The LandWCF Act requires the states to operate and maintain acceptable standards the properties or facilities acquired or developed for public outdoor recreation use. Further, Section 6(f)(3) of the LandWCF Act requires that no property acquired or developed with LandWCF assistance shall be converted to other than public outdoor recreation uses without the approval of the secretary of the interior and the substitution in accord with the SCORP of other recreation properties of at least equal fair market value and of reasonable equivalent usefulness and location.

[1]LandWCF Grants Manual, Guideline Number NPS-34, Release Number 140, 1983 Edition, Chapter 600.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), amended LR 12:829 (December 1986), repromulgated LR 31:

§903. Land and Water Conservation Fund (LandWCF) Grants Manual [2]

A. This Land and Water Conservation Fund (LandWCF) Grants Manual sets forth the administrative policies, procedures and guidelines for LandWCF grants awarded to the states by the Department of Interior, National Park Service. It is intended to serve as a basic reference for those who are engaged in the administrative and financial management of LandWCF grants to states, and to achieve uniformity in the administration of the LandWCF program by the state liaison officers.

B. Participation in the LandWCF program is deemed to constitute a public trust. It is the responsibility of the state to comply with this manual and all terms and conditions of the grant agreement, to efficiently and effectively manage funds in accordance with the approved budgets, to promptly complete grant assisted activities in a diligent and professional manner, and to monitor and report performance. This responsibility cannot be delegated or transferred. The policies and procedures contained in this manual are subject to applicable federal laws and regulations, and any changes made to these laws and regulations subsequent to their publication. In the event that these policies and procedures conflict with applicable federal laws, regulations, and policies, the following order of precedence will prevail:

1. federal law;
2. government-wide administrative regulations;
3. terms and conditions of grant award;
4. Land and Water Conservation Fund Manual.

C. The state bears primary responsibility for the administration and success of grant supported operations, including performance by third parties under subagreements made by the state for accomplishing nonconstruction and construction project objectives. Except as specifically excluded, the provisions of this manual shall be applied by the state to subgrantees and contractors performing work under LandWCF grants.

[2]LandWCF Grants Manual, Guideline Number NPS-34, Release Number 140, 1983 Edition, Chapter 600.0, Preface

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:

§905. Who is Eligible for Assistance

A. The Land and Water Conservation Fund Act provides grants only to states and through them to their political subdivisions. State agencies, parishes, cities, towns, school districts and special assessment districts, such as a recreation district are eligible to sponsor projects under this program. Private individuals and organizations are not eligible for assistance under this program, even if they are nonprofit or charitable organizations. The applicant must have tenure to the proposed project site, either by ownership, or by an irrevocable and unrestricted lease of minimum 25 years' duration, preferably with option for renewal. An existing lease must be renegotiated to provide the initial 25 years.

B. Areas acquired or developed with Land and Water Conservation Fund assistance are dedicated to the exclusive use of public outdoor recreation.

C. The project sponsor must agree to develop, operate and maintain the proposed development by acceptable standards for public outdoor recreation in perpetuity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:

§907. Projects Eligible for Assistance

A. Only costs for acquisition or development of public outdoor recreation areas are eligible. There are no federal funds available under this program for operation and maintenance. Sponsors must agree to operate and maintain the area or facilities at their own expense. Under this program there are no funds available for recreational activities such as salaries for instructors, baseball uniforms, etc.

B. Cost must be incurred after the project has received Federal National Park Service approval and the sponsor has been notified that the monies have been obligated.

C. Expenses for planning and engineering that are necessary to prepare the project for submission can be included in the eligible project costs. This is the only exception to the no retroactive costs. If any other work is performed or title to the land accepted prior to Federal National Park Service approval, the expenses incurred are not eligible for reimbursement.

D. Following are examples of facility development that would be eligible for reimbursement. This listing is not meant to be all inclusive, but merely suggestive of what has been funded in the past:

1. multi-purpose and/or basketball courts, could include lighting and fencing;
2. archery ranges;
3. ballfields such as baseball, softball, soccer, etc., could include lighting, dugouts, fence, etc.;
4. bleachers portable type bleachers only;
5. boat docks and boat loading ramps with adjacent parking and/or support facilities;[3]
6. buildings in support of public outdoor recreation are eligible, such as restrooms, storage buildings, service buildings, and small concession buildings;
7. fencing;
8. fishing piers;[3]
9. fishing ponds;[3]
10. golf courses;
11. landscaping in conjunction with the construction of outdoor recreation facilities;
12. parking facilities in support of outdoor recreation;
13. passive recreation facilities;
14. pathways and trails such as bridle paths, bicycle, nature and pedestrian;
15. picnic facilities, could include tables, grills, benches, trash receptacles, and picnic shelters;
16. playground equipment such as slides, merry-go-rounds, etc., but not equipment such as bats, balls, etc.;
17. roads within the park area are eligible; city streets around the park are not eligible. Access roads from a public thoroughfare to the park area may be eligible if they do not serve any other purpose;
18. shooting ranges for rifles, pistols, skeet, etc.;
19. sidewalks within the park area are eligible but perimeter sidewalks normally are not;
20. signs;
21. site improvements such as grading, land leveling, retaining walls, drainage structures, etc. (These improvements must be of modest scale and not sufficiently extensive to constitute a public works' project.);
22. swimming beaches and pools, including bathhouse;
23. tennis courts which can also be lighted and fenced;
24. utility systems which must be underground. No overhead wiring systems are eligible for reimbursement. If there are any existing overhead utility lines, they are to be buried, relocated, or screened from view. Cost of burying, relocation, or screening would be an eligible project cost;
25. camping facilities which can include tables, fireplaces, restrooms, showers, information stations, snack bars, utility outlets and other facilities needed for camping by tent, trailer or camper;
26. outdoor exhibit or interpretive facilities that provide opportunities for the observation or interpretation of natural resources located on the recreation site or in its immediate surrounding areas, including small demonstration farms, arboretums, outdoor aquariums, outdoor nature exhibits, nature interpretive centers and other similar facilities;
27. community garden can include land preparation, perimeter fencing, storage bins and sheds, irrigation systems, benches, walkways, parking areas and restrooms if clearly identified in the SCORP as a needed outdoor recreation activity;
28. outdoor display facilities at zoological parks are eligible provided they portray a natural environmental setting that serves the animal's physical, social, psychological and environmental needs, and that is compatible with the activities of the recreator. Can include walkways, landscaping, comfort facilities, parking;
29. small amphitheaters, bandstands.

[3]The Dingell-Johnson (D-J) Act (also known as the Federal Aid in Sport Fish Restoration Act) was amended (P.L. 98-369 of 1984) to require that at least 10 percent of a state's D-J apportionment be allocated for motor boat access facilities. In consideration of the allowance by both LandWCF and the D-J Act of common facilities, beginning in FY 1986, LandWCF assistance proposals for such activities must meet the following condition: Applications for LandWCF assistance shall include a description of applicant attempts to secure funding from the Dingell-Johnson program. LandWCF assistance will not be provided for facilities eligible under the Dingell-Johnson Program unless a state can demonstrate that it has been unsuccessful in an attempt to receive D-J assistance for the applicable proposal.

AUTHORITY NOTE Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:

§909. Not Eligible for Assistance

A. The following examples are not meant to be all inclusive:

1. restoration or preservation of historic structures;
2. areas and facilities to be used primarily for semiprofessional and professional arts and athletics;
3. amusement facilities (such as ferris wheels, children's railroads, exhibit type development, etc.),

convention facilities, commemorative exhibits, professional type outdoor theaters;

4. employee residences;

5. areas and facilities to be used solely for game refuges or fish production purposes not accessible to the public;

6. lodges, motels, luxury cabins, or similar elaborate facilities;

7. exhibit areas that function primarily for academic, historic, economic, entertainment or other nonrecreational purposes. This restriction includes convention facilities, livestock and produce exhibits, commemorative exhibits, fairgrounds, archaeological research sites, and other nonrecreational facilities. The development of nature and geological interpretive facilities which go beyond interpreting the project site and its immediate surrounding area are not eligible;

8. development of school "athletic plant" facilities such as stadiums, running tracks for interscholastic athletics and athletic fields with grandstands; enclosed facilities such as recreation buildings and enclosed swimming pools, etc.; impoundments such as lakes and ponds and other artificial structures considered major "public works" improvements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:

§911. Schools

A. Projects sponsored by a school district or project on or adjacent to school lands are eligible if they are to serve a general public recreation need. Facilities needed to meet the physical education and athletic program requirements of a school, or those that are a part of the normal and usual program and responsibility of educational institutions are not eligible for Land and Water Conservation Fund assistance.

B. The basic concept is that Land and Water Conservation Fund assistance can be used to expand facilities so that they may be available for community use. An example would be if a school has a tennis court and desires to add lighting so it could be used by the public in the evening. Another example: a school has a football field for their varsity games and desires to construct another field for grassed area activities for the general public. This would not preclude exclusive school use of certain facilities at certain specified times for instruction or competition, provided there is adequate public use at other times. Support facilities are eligible to the extent that they are needed to meet the designed public recreation use capacity.

C. Signs must be installed informing the public that the facilities are open to the general public. They also are to show the times when the facilities are reserved for exclusive school use.

D. An estimate of the amount of time the area will be used by the general public and the amount of time it will be used for exclusive school purposes must be enclosed with an application for a project to be on school lands. A time schedule showing exclusive school use must accompany the project application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:

§913. Application Preparation, Review and Selection Process

A. No work may begin on a project until Federal National Park Service approval has been received. State applications for LandWCF funds must be submitted to the DOR and this initiates an extensive and lengthy process involving DOR preparation of the federal application package, securing clearinghouse approval, evaluation and rating, and presentation to the Louisiana State Parks and Recreation Commission (SPARC) for review and recommendations to the SLO of those projects to be funded upon receipt of federal funds.

B. Local government applications for fund assistance are processed through the sequence of steps described below.

1. Receipt. Following receipt of a request for assistance, it is immediately acknowledged by the DOR and an appointment is made to meet and discuss the potential project, so the applicant is aware that processing of the application has been initiated.

2. Review and Preparation of Application. A determination is made regarding the applicant's eligibility to participate in the LandWCF program. If found ineligible, the applicant is notified of proper procedures to establish eligibility or secure an eligible applicant to sponsor project. The state application materials and documentation furnished by applicant prior to the federal application preparation by project officers is then carefully checked for adequacy of form and content. If the application materials are found unacceptable in any area, the applicant is immediately notified of the deficiencies. If declared acceptable, processing continues to step 3.

3. Application Preparation. The materials and documentation are used by the project officer to prepare a complete application package which complies with all federal and state requirements.

4. Screening during Preparation by Project Officer. The application is checked against certain basic screening criteria [enumerated in the 1983-88 SCORP, Appendix EE, "Louisiana Open Project Selection Process and Priority Rating System" (OPSP)] to determine its suitability for the fund program. If the application is found unsuitable under any of the basic criteria, the applicant is immediately notified of the specific problem area. If declared suitable, processing continues to step 5.

5. Evaluation. The application is next evaluated to determine the relative priority it should receive in comparison with existing public outdoor recreation needs. The evaluation process, known as the Louisiana Open Project Selection Process and Priority Rating System (OPSP), is a prerequisite for eligibility to receive Federal LandWCF monies (LandWCF Grants Manual Chapter 660.4). Louisiana's OPSP was prepared and received federal approval April 1, 1981. Those projects which are rated as having the potential for meeting the greatest or most urgent public outdoor recreation needs within–the scope of this program will be given priority consideration using the priority rating system. If the application fails to meet the criteria for priority consideration, the applicant is notified of

its assignment to a "deferred" category until the application can meet the criteria. If the application is found to be deserving of priority consideration, processing continues to step 6. Periodically, all applications in the deferred status will be reviewed and re-evaluated for possible elevation to priority status.

6. Ranking. The application is tentatively ranked with all other pending priority projects on the basis of the "priority rating system" and then positioned on a priority list in the order of its recommended ranking. The completed project applications are then presented to the SPARC for review and recommendation to the SLO of both the application and recommended ranking. Upon acceptance by the SLO, this ranking establishes the order in which applications will be further considered as funds become available.

a. The SPARC meets on a quarterly basis and projects are presented as the formal application is completed, at one of four quarterly meetings of the SPARC. At the last quarterly meeting, prior to the approximate time the annual Federal LandWCF apportionment is due, the SPARC reviews all pending projects in priority order and makes recommendations on the funding order to the SLO.

b. Projects may be prepared for funding as a single action or may be phased. If phased, only one phase at a time may be recommended for funding, although the entire project may be "qualified" for funding. Further, funding of a phase does not imply automatic funding of succeeding phases. To activate a succeeding phase, the "qualified applicant" must formally request subsequent funds by letter as the ongoing phase nears substantial completion. Substantial completion has been established by DOR as a minimum of 80 percent of the total project funds expended prior to awarding further funds. Another form of acceptable "phasing" is to add additional elements and funds upon reaching a state of substantial completion.

c. Successive phases are not reprioritized (ranked). At the final SPARC meeting prior to receipt of the annual LandWCF apportionment, a list of requests for successive phases is presented to the SPARC, who reviews and recommends to the SLO that:

i. only new projects will be funded; or

ii. only subsequent phases of active projects will be funded; or

iii. a combination of new projects and subsequent phases of active projects will be funded;

iv. at the same time that the completed application is forwarded to the SPARC, a copy is also sent to the Office of State Clearinghouse to comply with E.O. 12372, Intergovernmental Review of Federal Programs (replacing Office of Management and Budget Circular A-95).

7. Submission. The approved application is placed in final form and officially submitted as an application of the State of Louisiana to the Southeast Regional Office of NPS. At this point, the application is then dependent on federal action for its further progress.

8. Federal (NPS) Action

a. The submitted application is then considered by the Southwest Regional Office of the NPS. If the application is found acceptable in all respects, it will be "qualified." *Qualification* is a verification of technical adequacy and federal compliance conferred by NPS and does not imply commitment of federal funds. Immediate qualification and backlogging enables the participant to draw upon a wider variety of funding sources and assures DOR of 100 percent obligation of funds upon receipt of its annual apportionment.

b. In the above connection, a projection is made in regard to expected federal funds in each fiscal year to the extent of all projects placed in a funding position and the participant advised of the approximate time expected for forwarding of his project to the federal level. Prior to the expected date of funding, the participant is contacted to ascertain whether or not his share is available and that the project is still desired. In the event the participant does not have his share of the funds or a predictable source at that time, the project is passed over for funding, but will retain the funding position until such time as the project can be funded or withdrawn.

9. Recommendation. As funds become available, priority projects are recommended in their established order through the SPARC to the SLO. If all LandWCF monies have been obligated at the time, the project will be held in a standby status pending release of additional monies. As funds do become available, the application (already qualified) is then recommended in its turn to NPS for obligation of funds. Applications will be recommended for obligation only in an appropriate number to utilize efficiently those funds available at that specific time.

10. Once the desired amount of funds is "obligated" to the subject project by NPS, a project agreement will be executed for this purpose between the NPS and the state, and a similar agreement between the state and the local government. If found not acceptable for some reason, the application will be rejected by NPS and returned to the applicant, via the state, with reasons for such rejection. Processing of qualified applications continues to step 11.

11. Termination. The qualified application, with funds obligated to its subject project, is ready for funding and implementation. This is the final step in the preprocessing procedure, and the application will then be terminated in one of two ways: by successful completion of the project or by deactivating, if for some reason the project cannot be successfully completed. Postprocessing of applications for successfully completed projects will include progress reports and billings for work performed and accounting for funds expended. The process is concluded with formal notification by NPS of final settlement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:

§915. Application Preparation, Documents to be Submitted

A. Documents to be submitted vary for acquisition, development, or combination projects, but will include some or all of the following:

1. project application (include four digit census tract number, if available);

2. copy of resolution or minutes of meeting whereby the sponsor authorized the project;

3. evidence of land control:

a. projects for the development of facilities on leased land are not eligible except for land leased from the federal government for 25 years or more and except as noted

as follows. Leases from one public agency to another that include provisions which adequately safeguard the perpetual use requirement contained in the statute may be eligible for fund assistance. Such safeguards may include joint sponsorship of the proposed project or other agreement whereby the lessor would assume compliance responsibility for the fund-assisted area in the event of default by the lessee or expiration of the lease;

b. a copy of sponsor's deed to the land must accompany each project application where the sponsor already owns the land, along with a copy of title opinion, where available, and a letter of just compensation if purchased after January 2, 1972;

c. in the case of acquisition projects, the following listed items must be submitted with the application:

i. a property description showing acreage to be acquired and location;

ii. a description of type of title to be acquired;

iii. a list of any reservations or rights held by others, i.e. mineral rights, easements, rights-of-way, etc., on the property to be acquired;

iv. an explanation of how reserved rights will or will not affect the surface;

v. a plat map of the subject property;

4. breakdown of estimated project costs:

a. no contingency costs allowed;

b. add $200 for NPS permanent plaque; another $150 for temporary sign if project is over $500,000;

c. bottom line is 5.0 percent of total costs to cover state administrative charges;

d. at least 60 percent of the construction costs must be for construction of recreation elements, and no more than 40 percent may be expended on support facilities such as roads, parking, restrooms, to name a few;

5. maps and plans (seven copies of each):

a. vicinity neighborhood, city streets;

b. area location in parish or quadrangle map;

c. location state map;

d. plat or boundary map for acquisition projects must be dated, that area to be included in the project must be delineated and the application must identify known outstanding rights and interests held by others which exists within the project area (such as mineral rights and easements). If mineral rights are retained by the seller or someone other than the purchaser, the act of sale must contain a provision/clause specifying that any drilling to be done must be slant drilling and must be done from outside the project boundary lines;

e. Civil Rights Act of 1964 Assurances (two each):

i. DI Form 1350, Assurance of Compliance;

ii. Title VI Compliance Report;

f. site or boundary map for development projects must be dated and included in the application. It must clearly delineate that area to be included under the conversion provisions of Section 6(f)(3) of the Fund Act and Manual, Part 685, by showing a starting point located at intersection of nearest identified roads, and including the dimensions of each site of the site boundary. If site is not located at street intersection, measure from nearest intersection to nearest corner of site for point of beginning. It must identify known outstanding rights and interests held by others which exist within the project area;

g. development plan must show proposed facilities, and existing facilities must be clearly delineated (if more than one phase is involved, color code plan for each phase);

h. schematic floor plans for all enclosed or roofed structures;

i. metes and bounds survey for acquisition by purchase or donation;

6. statement that P.L. 91-646 "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970" has been or will be followed (only if acquisition is involved see Section on acquisition projects or if property for development project was purchased after January 2, 1972).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), amended LR 12:829 (December 1986), repromulgated LR 31:

§917. State Parks and Recreation Commission (SPARC)

A. The SPARC, in an advisory capacity, may recommend Rules to the SLO, who can establish as rules and set limits when deemed necessary to provide a more equitable distribution of funds throughout the state or to assure prudent administration of the program within the guidelines set by state and federal law. Based on the FY 1984 apportionment of $1.3 million, the ceiling is currently $300,000 per project sponsor per year. Based on an increase or decrease in the LandWCF apportionment, the ceiling will be adjusted. Addition of funds to a project to take care of a construction overrun are limited to the percent allowed by state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:

§919. Legal Requirements

A. Funding Restrictions non-eligible costs. The following are not eligible for federal assistance:

1. ceremonial or entertainment expenses;

2. expenses for publicity;

3. bonus payments of any kind;

4. charges in excess of the lowest bid when competitive bidding is required;

5. taxes which the project sponsor would not have been liable to pay;

6. interest expenses;

7. damage judgments, whether determined by judicial decision, arbitration or otherwise;

8. incidental costs relating to acquisition of real property or interest therein, including appraisals;

9. operation and maintenance costs of recreational areas and facilities;

10. lands acquired from the federal government at less than fair market value;

11. costs of discounts not taken;

12. employee facilities, including residences, appliances, office equipment, furniture, etc.;

13. donations or contributions made by the project sponsor, such as to a charitable organization;

14. salaries and expenses of the chief executive of the project sponsor (mayor, etc.) or the local government body (city council, etc.);

15. fines and penalties;

16. legal, professional fees paid in connection with raising funds;

17. use of sponsor's own equipment.

B. Matching Grants. All grants receiving LandWCF funds must be matched by at least an equal amount from other sources by the grantee. Such sources include:

1. cash;
2. general fund appropriations;
3. income from taxes;
4. other federal funds limited to:
   a. federal revenue sharing;
   b. HUD funds;
5. donation of real property;
6. labor by employees of the grant recipient.

C. Use of Grant Funds

1. All LandWCF grants become effective only after an official grant agreement is signed by the authorized representative, NPS and the state liaison officer or alternate state liaison officer, and a similar grant agreement is executed between the state and the grant recipient. Submission of a signed grant agreement to DOR constitutes:

a. agreement to comply with all rules, regulations and laws described in these guidelines; and

b. acceptance of all other terms and conditions of the grant contained in the grant agreement, grant application, the project handbook and LandWCF Grants Manual.

2. To be eligible for matching funds, all costs must be incurred within the project period, the project period being after the date the project was approved by the National Park Service and before the agreed upon ending date. The only exception would be costs for planning and engineering necessary for submitting a project. These must be listed separately in the cost breakdown with the project proposal; and

a. be necessary and reasonable for proper and efficient administration of the grant program, be allocable thereto and not be a general expense required to carry out the overall responsibilities of state or local governments;

b. be authorized or not prohibited under state or local laws or regulations;

c. conform to the limitations of Office of Management and Budget, Circular A-87 (formerly FMC 74-4), federal law, or other limitations in the project agreement as to types or amounts of costs;

d. be treated consistently through application of generally accepted accounting principles that are applied uniformly to both federally assisted and nonfederally assisted activities of the project sponsor. As of December 30, 1984, accounting principles should be in accord with the provisions of OMB Circulars A-102, A-128 or A-110;

e. not be allocable to or charged to any other federally financed program;

f. be net of all applicable credits; furthermore;

g. allowable costs include, but are not-limited to:

i. force account is applicable in-kind labor directly employed by sponsor at his regular salary;

ii. fringe benefits, such as insurance, retirement plans, social security contributions, etc., which are regularly provided to employees by the project sponsor are legitimate personal service costs and are eligible for reimbursement. Fringe benefit costs to a project should be computed in proportion to the time spent on a project;

iii. consultant services that are necessary for a project are generally eligible costs. No consultant fee paid to any federal, state or project sponsor's employee will be eligible for reimbursement unless specifically agreed to by the Federal National Park Service. Louisiana bases consultant services on the "Louisiana Fixed Fee Curve For Basic Design Services";

iv. supplies and materials which may be purchased for a specific project or may be drawn from a central stock. The former should be charged to a project at their actual price, less discounts, rebates, etc., and the latter should be charged at cost under any recognized method pricing consistently applied. Incoming transportation charges are a proper part of material cost;

v. construction which covers all necessary construction activities, from site preparation through completion. Construction may be carried out through a contract with a private firm or by the use of the project sponsor's own personnel and materials as outlined above;

vi. information and interpretation costs directly related to a project. These may include informational and directional signs, display boards, dioramas, or other facilities which interpret or explain the project area. Publicity costs are not eligible;

vii. costs of purchases of real property or of interests in real property. Assistance is limited to the lesser of fair market value or actual amount paid. Any incidental costs of acquisition, such as appraisals, legal fees, etc., are not eligible for matching funds. The cost of acquiring real property from other public agencies may be eligible for matching, provided:

(a). the land was not originally acquired by the other agency for recreation, nor has it been so managed while in public ownership;

(b). no federal assistance was involved in the original acquisition by the other agency; or

(c). if the selling agency is federal, fair market value is paid.

3. Eligibility of Donations

a. To be eligible for reimbursement the proposed donations must be clearly spelled out in the project application. This must include a breakdown as to what is to be donated and the estimated value of the donations.

b. In-kind contributions, which may be considered as part of the project sponsor's matching share, fall into the following categories.

i. Real property. For land value to be eligible:

(a). the project must include additional acquisition and/or development costs equal to or greater than the donated land value; and

(b). the grant recipient must not accept title to the donated land until NPS obligation of funds has been received. In addition to the usual documentation and procedures for submitting an acquisition project, the following are necessary when a land donation is involved:

(i). immediately after obligation of funds to a project, the project sponsor must arrange for a qualified appraiser to make an appraisal in accordance with LandWCF

Grants Manual specifications. (The cost of the appraisal is to be borne completely by the project sponsor. It is not eligible for reimbursement.) Two copies of the complete appraisal are to be submitted to the Office of State Parks, Division of Outdoor Recreation.

(ii). The appraisal will be reviewed by an independent appraiser at the state level.

(iii). When the appraisal is approved, it is submitted to the National Park Service for final approval.

(iv). Upon final approval the land may be accepted by the project sponsor and work on the development portion of the project may begin after plans and specifications have been approved and pre-construction certification issued.

ii. Labor. Records of in-kind contributions of personnel shall include time sheets containing the signatures of the person whose time is contributed and the project supervisor verifying that the record is accurate.

4. Eligibility of Acquisitions. All projects involving acquisition are subject to the provisions of P.L. 91-646, "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970" and must have been acquired under the guidelines of the Act. The Act deals with two basic areas:

a. Title II the establishment of a uniform policy for the fair and equitable treatment of persons who must relocate their homes, farms, or businesses as a result of a federal or federally assisted program;

b. Title III the establishment of uniform procedures to be followed when acquiring real property, so that all persons will receive fair treatment and be offered a fair price for their property. To comply with Title III of the Act, the following outlined procedures are to be observed.

i. Initial Contact with Landowner

(a). An initial contact should be made to determine if the owner is willing to sell the property for park purposes.

(b). No price is to be negotiated at this time.

(c). If he is willing to sell, permission to inspect the property and have it appraised should be obtained.

(d). He should be informed that he will be given the opportunity to accompany the appraiser during his inspection of the property.

ii. Appraisal

(a). The owner or his representative must be given the opportunity to accompany the appraiser during his inspection of the property.

(b). Before obligation of funds, the Office of State Parks, Division of Outdoor Recreation, will notify the project sponsor to send two copies of one appraisal. The appraisal must meet LandWCF Grants Manual requirements which will have been previously sent to the sponsor.

iii. Fair Market Value

(a). The owner must be advised, in writing, of the value of the property, which is based upon the appraisal.

(b). The amount offered to purchase the property must not be less than the appraised value.

(c). If the negotiated selling price differs from the appraised value, explain in detail why there is a difference. Fund assistance is limited to the appraised value or selling price, whichever is lower.

iv. Project Proposal

(a). The sponsor must not accept title to the property before the project has been approved by the Federal National Park Service.

(b). With the project application, enclose a statement that the above procedures have been or will be followed.

5. Public Acknowledgement

a. Temporary Signs

i. Such signs indicating Land and Water Conservation Fund assistance for an acquisition and/or development project which exceeds $500,000 total cost must be located on or near the project site. Projects involving less than $500,000 total cost may be temporarily signed at the discretion of the project sponsor.

ii. Development projects of more than $500,000 will be temporarily signed from the commencement of construction until a permanent sign is installed. Signing of acquisition projects may be delayed until the acquisition of all parcels. A temporary sign must be installed upon the completion of the acquisition for a period of not less than six months or until replaced by the permanent sign.

iii. The sign should include the source, percentage and dollar amount of all federal and local funds involved. It should also acknowledge participation by the National Park Service and the Office of State Parks, Division of Outdoor Recreation. The sign should also indicate if the project is for acquisition, development, or both.

iv. Items for the sign are the two agency symbols and color of the lettering. These will be provided to all project sponsors and are an eligible item.

v. Unless precluded by local sign ordinances, the minimum size of the signs will be 2 feet by 3 feet, and there is no maximum size. The temporary sign is an eligible project item, one-half of the cost of which is reimbursable. The temporary sign could be included as part of the contract items.

b. Permanent signs acknowledging Land and Water Conservation participation are also required by federal guidelines. Arrangements have been made by the Division of Outdoor Recreation for the purchase of such signs. One-half of the cost will be deducted from the first request for reimbursement. Upon completion of the project, the sign is sent for installation at the project site.

6. Compliance with Administrative Regulations. Grant recipients must adhere to the administrative requirements for grants from DOR as determined by the state and any additional requirements by the National Park Service such as those promulgated in Office of Management and Budget (OMB Circulars A-87, A-102, or A-128 if grant recipient is an agency of state or local government, or A-110 if a non-profit organization).

7. Standards for Financial Management. State and local government systems for the financial management of LandWCF assisted activities shall be in accordance with OMB Circular A-102, Attachment G, and provide for:

a. accurate, current, and complete disclosure of the financial results of each project grant;

b. records which identify adequately the source and application of funds for grant-supported activities. These records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income;

c. effective control over and accountability for all funds, property, and other assets. The grantee shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes;

d. procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the grantee whenever funds are advanced by the federal government;

e. procedures for determining the allowability and allocability of costs in accordance with the provisions of OMB Circular A-87 (formerly FMC 74-4) and the LandWCF Grants Manual;

f. accounting records which are supported by source documentation. Separate project accounts shall be established and identified by the number assigned to the project by the service;

g. audits to be made by the state in accordance with OMB Circular A-128 to determine, at a minimum, the fiscal integrity of financial transactions and reports, and compliance with laws, regulations and administrative requirements. The state and grantees will schedule such audit annually;

h. a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

8. Compliance Requirements and Procedures. The Office of State Parks, through the Division of Outdoor Recreation, is authorized to administer the Department of Interior Land and Water Conservation Fund Act (16, U.S.C §4601-4 to 4601-11) in Louisiana by Act 329 of 1982. This office receives federal funds through this program and distributes them in the form of grants to subrecipients who are political subdivisions of the state. As a recipient of federal funds, the Office of State Parks, Division of Outdoor Recreation, is subject to the requirements of the Single Audit Act of 1984 P.L. 98-502, as are the program subrecipients of this fund. As a result of the Single Audit Act of 1984, the Office of State Parks, Division of Outdoor Recreation, has established the following guidelines for the office as a recipient of LandWCF funds and for subrecipients who are awarded these funds. These guidelines will also apply to any other federal programs the office may administer while the act is in effect.

a. Audit Requirements

i. All units of local government within the state, including a municipality (city, town), parish, school board, recreation district or other unit of local government who receive a total equal to $100,000 or more in federal financial assistance (from all federal sources) are required to submit a single audit report for that year, in compliance with the requirements of the Single Audit Act of 1984, P.L. 98-502.

ii. All units of local and parish government described above who receive a total equal to or more than $25,000, but less than $100,000 in federal financial assistance (from all federal sources) shall submit a single audit report for that year, in compliance with P.L. 98-502; or shall submit an audit report for that year in accordance with federal laws and regulations governing the program they participate in.

iii. All units of local and parish government described above who receive a total of less than $25,000 in federal financial assistance shall be exempt from compliance with P.L. 98-502 and other federal audit requirements. These governmental units will be governed by audit requirements prescribed by state and local law or regulation, and such reports generated will be submitted.

iv. Public universities must submit an audit in compliance with Circular A-110 or other applicable audit requirements.

b. Documentation Requirements

i. Subrecipients will be required to submit an audit to the Office of State Parks, Division of Outdoor Recreation, on a fiscal year basis. Since the project period extends for up to five years, an audit is required for each year the grant is in effect. The reports must be received by this office within 30 days after issuance of the audit report.

ii. If an audit report has not been received by this office within 90 days after the project agreement ending date or financial completion date, whichever comes first, the subrecipient will be contacted and an estimated submission date will be established for the report. This date may not exceed one year from the project agreement ending date or financial completion date.

c. Audit Resolution

i. When an audit report is received by this office it will be reviewed for compliance. If any illegal acts or irregularities are cited concerning the LandWCF or other federal programs administered by this office, prompt notice will be given to the recipient in writing. Corrective actions by the subrecipient must be accomplished within six months after receipt of the audit report by this office.

ii. If the cited illegal acts or irregularities are not corrected within the six-month time period described above, a copy of the letter of notification to the subrecipient will be sent to the Louisiana Legislative Auditor's Office and to the Louisiana Attorney General's Office, accompanied with a request that they take the required legal action. In addition, the cognizant federal agency will be notified and requested to take appropriate actions and/or the federal agency responsible for the program.

d. Effective Date. The Single Audit Act and accompanying Circular A-128 shall apply to the fiscal years of state and local governments that begin after December 31, 1984. Until implemented, the audit provisions of Attachment P to OMB Circular A-102 shall continue to be observed.

e. Files Retention. All files will remain with the central administrative files in the Division of Outdoor Recreation for the duration of project and for the three years after completion as required by federal law.

f. P.L. 98-502 and OMB Circular A-128. All provisions of P.L. 98-502 and OMB Circular A-128 are incorporated by reference in this procedure.

g. Revisions. Any changes to OMB Circular A-128 by Congress, OMB, or through relevant implementation Rules/regulations promulgated by the federal granting agency will be added by addendum or procedure revision and provided to the secretary and undersecretary.

9. Compliance with Federal and State Laws. When accepting a LandWCF grant awarded through DOR, grantees are required to comply with all state laws applicable to the DOR grants program and those federal statutes, regulatory requirements and policies required by NPS summarized as follows, but not limited to:

a. Architectural Barriers Act of 1968 (P.L. 90-480) (see manual, Chapter 660.5). Provides facility access to the handicapped. In the design of all projects receiving federal financial assistance, consideration must be given for use by the physically handicapped. Ramps should be considered in place of steps. Door widths should be sufficient for passage of wheelchairs. Trails and pathways can be designed for use by the blind;

b. the Flood Disaster Protection Act of 1973 (12 U.S.C. Sec. 24, 1701-1 Supp.) (42 U.S.C. Sec. 4001 et seq.) (see manual, Chapter 650.6). If project is in a flood zone as established by HUD flood maps, all enclosed structures valued over $10,000 must carry flood insurance;

c. the National Environmental Policy Act of 1969, as amended (P.L. 91-190, 42 U.S.C. 4321 et seq.) (see manual, Chapter 650.2). An environmental assessment or certification will be prepared by the DOR staff. Need for full environmental impact statement will be determined at the federal level, if warranted;

d. the Clean Air Act, as amended (42 U.S.C. 7609);

e. the Clean Water Act (33 U.S.C. Secs. 1288, 1314, 1341, 1342, 1344);

f. Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977);

g. Executive Order 11288, concerning prevention, control and abatement of water pollution (see manual, Chapter 660.5);

h. Executive Order 11988, Floodplain Management (see Chapter 650.7);

i. Executive Order 11296, Evaluation of Flood Hazard in Locating Federally Owned or Financed Buildings, Roads, and Other Facilities and in Disposing of Federal Lands and Properties;

j. Federal Act for Protection and Restoration of Estuarine Areas (P.L. 90-454);

k. Wild and Scenic Rivers Act of 1968 (P.L. 90-542) (16 U.S.C. 1274 et seq.);

l. Coastal Zone Management Act of 1972 (P.L. 92-583) (16 U.S.C. Sec. 1451, 1456) (see Chapter 660.5);

m. the Rivers and Harbor Act of 1899 (33 U.S.C. Sec. 401 et seq.);

n. Executive Order 11990, Protection of Wetlands (see Chapter 650.7);

o. the Fish and Wildlife Coordination Act (16 U.S.C. Sec. 661, 662);

p. the Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) (see Chapter 660.5);

q. the Antiquities Act of 1906 (16 U.S.C. Sec. 431); (see Chapter 650.4);

r. the Archaeological and Historic Preservation Act of 1974, as amended (P.L. 93-291, 16 U.S.C. Sec. 469 a-1) (see Chapter 650.4);

s. the National Historic Preservation Act of 1966, as amended, (P.L. 88-655,16 U.S.C. Sec. 470 et seq.) (see Chapter 650.4). An archaeological survey may be required. In all projects, should cultural resources be discovered during construction, this agency should be notified immediately;

t. Executive Order 11593, Protection and Enhancement of the Cultural Environment (see Chapter 650.4);

u. Federal Aid Highway Act of 1973 (P.L. 93-87);

v. Section 504, the Rehabilitation Act of 1973, as amended (P.L.93-112);

w. Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970 (P.L. 94-646) (see Chapter 650.3). SPARC policy prohibits that part of a project requiring relocation;

x. Title VI of the Civil Rights Act of 1964 (P.L. 88-352, 42 U.S.C. Sec. 2000d to 2000d-4) (see Chapter 650.9);

y. Executive Order 11246, Equal Employment Opportunity (see Chapter 650.5);

z. Office of Management and Finance and Budget Circulars A-102 and A-128. Provides uniform administrative requirements for grants-in-aid to state and local governments (see Chapter 675);

aa. Office of Management and Budget Circular A-87 (formerly FMC 74-4). Identifies cost principles applicable to grants and contracts with state and local governments as they relate to the application, acceptance and use of federal funds (see Chapter 670.3);

bb. Power Plant and Industrial Fuel Use Act of 1978 (P.L. 95-620) (see 640.3.7J and 660.5.3V);

cc. Executive Order 12185, Conservation of Petroleum and Natural Gas (see 640.3.7J and 660.5.3V);

dd. Executive Order 12372, Intergovernmental Review of Federal Programs (see Chapter 650.8);

ee. Executive Order 12432, Minority Business Enterprise Development;

ff. a permit from the appropriate federal agency (Corps of Engineers, Coast Guard, etc.) is required for development proposals involving any activities in navigable waters. The grantee will be responsible for providing the Division of Outdoor Recreation with the appropriate permits.

10. Procurement Standards. The work of developing an area or areas may be accomplished by contract, donated labor, or by force account, subject to conditions established by the service. Prior to the commencement of any work, the DOR staff must be provided with a complete set of plans and specifications for review and certification. Projects or portions thereof may be undertaken through contracts in accord with the procurement standards and guidelines set forth in OMB Circular A-102, Attachment O. This includes the procurement of supplies, equipment, construction and services. Applicable federal statutes, regulations or policies which must be considered include, but are not limited to:

a. Executive Order 11246, as amended, regarding equal opportunity for all persons, without regard to race, color, religion, sex, or national origin, employed or seeking employment with contractors performing under federally assisted construction contracts;

b. Executive Order 12432, Minority Business Enterprise Development;

c. OMB Circular A-102, Attachment O, except for provision related to compliance with Davis Bacon Act requirements (unless required by a program providing supplemental funding). Should supplemental funding be provided which requires compliance with Davis Bacon Act requirements, all construction contracts awarded by the grantee and subgrantee in excess of $2,000 shall include a provision for compliance with such act (40 U.S.C. 276a to a-

7) and as supplemented by Department of Labor regulations (29 CFR, Part 5);

d. Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR, Part 3);

e. Hatch Act, which provides that no officer or employee of the state, whose principal employment is in connection with any activity which is financed, in whole or in part, pursuant to this agreement, shall take part in any of the political activity prescribed in the Hatch Political Activity Act (5 U.S.C. Sec. 118k, 1964), with the exceptions therein enumerated.

11. Reimbursement of Project Costs

a.i. Project costs eligible for assistance shall be determined upon the basis of the criteria set forth in the manual and OMB Circular A-87 (formerly FMC 74-4).

ii. The agreement may include the use of the indirect cost rate currently approved, in accordance with Circular A-87 for the state that is a party to this agreement.

iii. Federal financial assistance under the Land and Water Conservation Fund Program is on a 50 percent reimbursable basis. The project sponsor is to implement the proposed project, pay the bills, and submit documentation regarding all expenses on a partial or final billing basis. Fifty percent of the eligible costs, less an administrative fee, will then be reimbursed by the federal government through the Division of Outdoor Recreation. After adequate documentation is received by the Division of Outdoor Recreation, the processing usually takes 14 to 20 days before the project sponsor receives the reimbursement.

b. Partial payments. A project sponsor may submit a request for reimbursement at any time during the life of the project. Project billings should be submitted not more frequently than at 30-day intervals and should not be less than $1,000. Documentation required for reimbursement includes copies of all checks and pertinent invoices. Partial billings will be processed up to 90 percent of the total project cost. A billing within the final 10 percent of the project cost will not be processed unless it is the final billing for that project and a final on-site inspection has been made.

c. Each project is approved at a specific total dollar amount. If a project sponsor awards a bid or signs a contract in an amount to exceed the total cost of the project, there is a strong possibility that the project sponsor may have to bear the total cost of the overrun with their own funds. If the bid is over the approved dollar amount, the sponsor must contact the Division of Outdoor Recreation for approval of the overage before awarding the contract.

12. Retention of Records. In accordance with OMB Circular A-102, Attachment C, the following policies will apply to records maintenance.

a. Financial records, supporting documents, statistical records, and all other records pertinent to a grant program shall be retained for a period of three years after final payment on a project or element. The records shall be retained beyond the three-year period if audit findings have not been resolved.

b. The retention period starts from the date of the submission of the final expenditure report.

c. State and local governments are authorized to substitute microfilm copies in lieu of original records.

d. The Division of Outdoor Recreation, legislative auditor, attorney general, secretary of the interior and the comptroller general of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the state and local governments and their subgrantees which are pertinent to a specific project for the purpose of making audits, examinations, excerpts and transcripts.

13. Project Termination

a. The director of NPS may temporarily suspend federal assistance under the project pending corrective action by the state or local government, or pending a decision to terminate the grant by the National Park Service.

b. The state may unilaterally terminate the project or consolidated project element at any time prior to the first payment on the project or consolidated project element. After the initial payment, the project may be terminated, modified, or amended by the state only by mutual agreement.

c. The director of NPS may terminate the project in whole, or in part, at any time before the date of completion, whenever it is determined that the grantee has failed to comply with the conditions of the grant. The director will promptly notify the state in writing of the determination and the reasons for the termination, together with the effective date. Payments made to states and local government of recoveries by NPS under projects terminated for cause shall be in accord with the legal rights and liabilities of the parties.

d. The director or state may terminate grants in whole, or in part, at any time before the date of completion, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The NPS may allow full credit to the state for the federal share of the non-cancelable obligations, properly incurred by the grantee prior to termination.

e. Termination either for cause or for convenience requires that the project in question be brought to a state of recreational usefulness agreed upon by the state and the director, or that all funds provided by the National Park Service be returned.

14. Conversion to Other Uses

a. Property acquired or developed with Land and Water Conservation Fund assistance shall not be converted to other than public outdoor recreation uses without prior approval of the secretary of the U.S. Department of the Interior. The secretary's approval will not be given unless the substitution of other outdoor recreation properties of at least equal fair market value and of reasonable usefulness, quality, and location is guaranteed.

b. Property acquired or developed for one type of recreation activity may not be converted to another recreational activity unless prior approval is obtained from the state liaison officer and NPS.

c. All proposals to convert property acquired or developed with Land and Water Conservation Fund assistance to other than public outdoor recreation uses or to other than the proposed uses should be sent to the Division of Outdoor Recreation.

15. Inspections

a. Inspections may be made at any time before, during, or after the project period by either the Division of Outdoor Recreation or the National Park Service.

b. The Division of Outdoor Recreation visits all project sites at least once before project approval and a minimum of once a year during the construction or development. Upon completion of the project, a final site visit will be made before the final billing is processed. After a project has been completed, it is usually visited on a triannual basis.

c. In order to determine whether properties acquired or developed with LandWCF assistance are being retained and used for outdoor recreation-purposes in accordance with the project agreement and other applicable program requirements, a state compliance inspection is to be made within three years after final billing and at least one every five years thereafter.

d. The following points will be taken into consideration during the inspection of properties that have been developed for public use.

i. Retention and Use. Is the property being used for the purposes intended?

ii. Appearance. Is the property attractive and inviting to the public?

iii. Maintenance. Is upkeep and repair of structures and improvements adequate? Is there evidence of poor workmanship or use of inferior quality materials or construction? Is vandalism a problem?

iv. Management. Does staffing and servicing of facilities appear adequate?

v. Availability. Is there evidence of discrimination? Is the property readily accessible and open to the public during reasonable hours and times of the year?

vi. Environment. Is the quality of the area being maintained?

vii. Signing. Is the area properly signed to allow for user information and safety, and proper acknowledgement of the Land and Water Conservation Fund assistance received?

viii. Interim Use. Where lands have been acquired but not yet developed, the inspection should determine whether the interim use being made of the property, if any, is as agreed to by the service.

e. When a compliance problem is noted, DOR will immediately notify the sponsor and NPS in writing. Failure of the grantee to meet DOR and LandWCF requirements for the timely and appropriate resolution of noncompliance findings and recommendations shall result in legal action and the grantee will be ineligible to receive future LandWCF grants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1801-1809.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), amended LR 12:829 (December 1986), repromulgated LR 31:

Family Impact Statement

The proposed amendments to LAC 25:IX.101 et seq. regarding the update of the Rules for state parks should not have any known or foreseeable impact on any family as defined in R.S. 49:972(D) or on family formation, stability and autonomy. Other than the minimal impact on the family budget, which will arise from a small increase in fees, there should be no known or foreseeable effect on:

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

Interested persons should submit written comments on the proposed Rules to Stuart Johnson, Ph.D. through May 11, 2005 at P.O. Box 44426, Baton Rouge, LA 70804. All interested parties may submit data, views or arguments in writing by 4:30 p.m. on May 11, 2005. No preamble regarding these Rules is available.

Stuart Johnson, Ph.D.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: State Parks

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

There are no anticipated costs to state and local governmental units to implement these rules.

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

There is an anticipated increase in revenue collections for the state through the change in calculation of entrance fees at recreation sites and the increase in fees for most day use and overnight facilities and services. Assuming no change in visitation, the agency estimates a resulting 26.8% increase, or $1.58 million, in revenue annually.

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

The estimated cost to the individual park user will vary greatly, from no increase (e.g., 2 persons in a car at a recreation site will still be charged $2) to modest increases (e.g., $1 per person more for large groups staying in a Class III group camp; $20 more per year for an annual pass; $10 more per night for standard cabins) to more significant increases (e.g., $25 increase on meeting room rental; $25 increase per night for deluxe cabins).

The fees generated in the park system are statutorily dedicated to repairs and improvements. These fees have not been updated since 1993, while the costs for repairs and improvements continue to rise. Additional funding for repairs and improvements will benefit park users while not tapping into the state general fund.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect on employment is anticipated. The plan will have a positive effect on competition by bringing the fees charged by the Louisiana State Park system closer in line

with those charged by other public and private providers of similar services and facilities.

Stuart Johnson, Ph.D.
Assistant Secretary
0505#035

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 Louisiana Handbook for School Administrators High School Graduation Requirements (LAC 28:CXV.2319)

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 a revision to *Bulletin 741 Louisiana Handbook for School Administrators* in §2319.F-F1.b. This revision to the BESE policy for Academic Diploma Endorsements is intended to update the policy based on legislation passed in Spring 2004 affecting the TOPS Core Curriculum. Legislation passed in 2004 (Act 472) changes TOPS policy for graduates in 2007-2008 and beyond to include the requirement of an additional math or science course from the TOPS core. Current policy for the Academic Endorsement states students must meet the TOPS course requirements plus take an additional math, science or social studies course. The change in TOPS legislation would require graduates in 2007-2008 to meet the current TOPS core and have two additional courses in order to earn an Academic Endorsement. This proposed policy requires graduates in 2007-2008 and beyond who receive an Academic Endorsement to meet the new TOPS core and does not require an additional math, science or social studies course. This revision is equivalent to the current course requirements for the Academic Endorsement.

Title 28
EDUCATION
Part CXV. Bulletin 741C Louisiana Handbook for School Administrators
Chapter 23. Curriculum and Instruction
§2319. High School Graduation Requirements

A. Standard Diploma

1. The 23 units required for graduation shall include 15 required units and 8 elective units; the elective units can be earned at technical colleges as provided in §2389.

B. In addition to completing a minimum of 23 Carnegie credits, students must pass the English language arts and mathematics components of the GEE 21 and either the science or social studies portions of GEE 21 to earn a standard high school diploma.

1. The English language arts and mathematics components of GEE 21 shall first be administered to students in the 10th grade.

2. The science and social studies components of the graduation test shall first be administered to students in the 11th grade.

3. Remediation and retake opportunities will be provided for students that do not pass the test. Students shall be offered 50 hours of remediation each year in each content area they do not pass. Refer to Bulletin 1566 Guidelines for Pupil Progression, and the addendum to Bulletin 1566 Regulations for the Implementation of Remedial Education Programs Related to the LEAP/CRT Program, Regular School Year.

4. Students may apply a maximum of two Carnegie units of elective credit toward high school graduation by successfully completing specially designed courses for remediation.

a. A maximum of one Carnegie unit of elective credit may be applied toward meeting high school graduation requirements by an eighth grade student who has scored at the Unsatisfactory achievement level on either the English language arts and/or the mathematics component(s) of the eighth grade LEAP 21 provided the student:

i. successfully completed specially designed elective(s) for LEAP 21 remediation;

ii. scored at or above the basic achievement level on those component(s) of the eighth grade LEAP 21 for which the student previously scored at the Unsatisfactory achievement level.

C. Prior to or upon the student's entering the tenth grade, all LEAs shall notify each student and his/her parents or guardians of the requirement of passing GEE 21.

1. Upon their entering a school system, students transferring to any high school of an LEA shall be notified by that system of the requirement of passing GEE 21.

D. The Certificate of Achievement is an exit document issued to a student with a disability after he or she has achieved certain competencies and has met certain conditions. Refer to Bulletin 1706 Regulations for the Implementation of the Children with Exceptionalities Act.

E. Minimum Course Requirements for High School Graduation

English	4 units
Shall be English I, II, and III, in consecutive order; and English IV or Business English.	
Mathematics	**3 units**
(Effective for incoming freshmen 2005-2006 and beyond.) All students must complete one of the following: • Algebra I (1 unit) or • Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units) or • Integrated Mathematics I (1 unit) The remaining unit(s) shall come from the following: Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics. (Effective for incoming freshmen 1997-98 through 2004-2005) Shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics	

Science	3 units
Shall be the following: 1 unit of Biology 1 unit from the following physical science cluster: Physical Science, Integrated Science, Chemistry I, Physics I, Physics of Technology I 1 unit from the following courses: Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, an additional course from the physical science cluster, or a locally initiated science elective. • Students may not take both Integrated Science and Physical Science • Agriscience I is a prerequisite for Agriscience II and is an elective course.	
Social Studies	**3 units**
Shall be American History, one-half unit of Civics, one-half unit of Free Enterprise; and one of the following: World History, World Geography, or Western Civilization	
Health Education	**1/2 unit**
Physical Education	**1 1/2 units**
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of four units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
Electives	**8 units**
TOTAL	**23 units**

F. High School Area of Concentration

1. All high schools shall provide students the opportunity to complete an area of concentration with an academic focus and/or a career focus.

a. To complete an academic area of concentration, students shall meet the current course requirements for the Tuition Opportunity Program for Students (TOPS) Opportunity Award. Graduates in 2004-2005 to 2006-2007 must have one additional Carnegie unit in mathematics, science, or social studies.

b. To complete a career area of concentration, students shall meet the minimum requirements for graduation including four elective primary credits in the area of concentration and two related elective credits, including one computer/technology course. The following computer/technology courses can be used to meet this requirement.

Course	Credit
Computer/Technology Literacy	1
Computer Applications or Business Computer Applications	1
Computer Architecture	1
Computer Science I, II	1 each
Computer Systems and Networking I, II	1 each
Desktop Publishing	1
Digital Graphics & Animation	1/2
Multimedia Presentations	1/2 or 1
Web Mastering or Web Design	1/2
Independent Study in Technology Applications	1
Word Processing	1
Telecommunications	1/2
Introduction to Business Computer Applications	1
Technology Education Computer Applications	1
Advanced Technical Drafting	1
Computer Electronics I, II	1 each

G. Academic Endorsement

1. Graduating seniors in 2005 and thereafter who meet the requirements for a standard diploma and satisfy the following performance indicators shall be eligible for an academic endorsement to the standard diploma.

a. Students shall complete the academic area of concentration.

b. Students shall pass all four components of GEE 21 with a score of basic or above, or one of the following combinations of scores with the English language arts score at basic or above:

i. one approaching basic, one mastery or advanced, basic or above in the remaining two; or

ii. two approaching basic, two mastery or above.

c. Students shall complete one of the following requirements:

i. senior project;

ii. one carnegie unit in an AP course with a score of three or higher on the AP exam;

iii. one carnegie unit in an IB course with a score of four or higher on the IB exam; or

iv. three college hours of non-remedial, articulated credit in mathematics, social studies, science, foreign language, or English language arts.

d. Students shall meet the current minimum grade-point average requirement for the TOPS Opportunity Award.

e. Students shall achieve an ACT Composite Score of at least 23.

H. Career/Technical Endorsement

1. Graduating seniors in 2005 and thereafter who meet the requirements for a standard diploma and satisfy the following performance indicators shall be eligible for a career/technical endorsement to the standard diploma.

a. Students shall meet the current course requirements for the TOPS Opportunity Award or the TOPS Tech Award.

b. Students shall complete the career area of concentration.

c. Students shall pass the English language arts, mathematics, science, and social studies components of the GEE 21 at the Approaching Basic level or above.

d. Students shall complete a minimum of 90 work hours of work-based learning experience (as defined in the DOE Diploma Endorsement Guidebook) and complete one of the following requirements:

i. industry-based certification from the list of industry-based certifications approved by BESE; or

ii. three college hours in a career/technical area that articulate to a postsecondary institution, either by actually obtaining the credits and/or being waived from having to take such hours.

e. Students shall meet the current minimum grade-point average requirement for the TOPS Opportunity Award or the TOPS Tech Award.

f. Students shall achieve the current minimum ACT Composite Score (or SAT Equivalent) for the TOPS Opportunity Award or the TOPS Tech Award.

I. A Louisiana state high school diploma cannot be denied to a student who meets the state minimum high

school graduation requirements; however, in those instances in which BESE authorizes an LEA to impose more stringent academic requirements, a school system diploma may be denied.

J. Each school shall follow established procedures for special requirements for high school graduation to allow each to address individual differences of all students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R. S. 17:183.2; R.S. 17: 395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:

Family Impact Statement

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

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

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

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

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

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

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., July 9, 2005, 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—High School Graduation Requirements

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

The implementation of changes requires no cost or savings to state or local governmental units. This revision to the BESE policy for Academic Diploma Endorsements is intended to update the policy based on legislation passed in Spring 2004 affecting the TOPS Core Curriculum. The policy change removes the requirement for an extra course for graduates in '07-'08 and beyond because TOPS will require an extra course for graduates in '07-'08 and beyond.

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

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

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

There will be no costs or economic benefits to persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn J. Langley	H. Gordon Monk
Deputy Superintendent	Staff Director
Management and Finance	Legislative Fiscal Office

0505#020

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment

2004 Incorporation by Reference for Air Quality
(LAC 33:III.507, 2160, 3003, 5116,
5122, 5311, and 5901)(AQ251ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.507, 2160, 3003, 5116, 5122, 5311, and 5901 (Log #AQ251ft).

This proposed Rule is identical to federal regulations found in 40 CFR Parts 51, Appendix M, 60, 61, 63, 68, and 70.6(a), July 1, 2004, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4314, Baton Rouge, LA 70821-4314. 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 rulemaking incorporates by reference into Louisiana's air quality regulations the corresponding federal regulations in 40 CFR Parts 51, Appendix M, 60, 61, 63, 68, and 70.6(a), July 1, 2004. Exceptions to the incorporated regulations are explicitly listed in the proposed rule. 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. The basis and rationale for this Rule are to mirror the federal regulations as they apply to Louisiana's affected sources.

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

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§507. Part 70 Operating Permits Program

A. - B.1. …

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC

33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include the elements required by 40 CFR 70.6. The department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), July 1, 2004. Upon issuance of the permit, the Part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:

Chapter 21. Control of Emission of Organic Compounds

Subchapter N. Method 43C Capture Efficiency Test Procedures

§2160. Procedures

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR Part 51, Appendix M, July 1, 2004, are hereby incorporated by reference.

B. - C.2.b.iv. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference

§3003. Incorporation by Reference of 40 *Code of Federal Regulations* (CFR) Part 60

A. Except for 40 CFR Part 60, Subpart AAA and as modified in this Section, Standards of Performance for New Stationary Sources, published in the *Code of Federal Regulations* at 40 CFR Part 60, July 1, 2004, are hereby incorporated by reference as they apply to the state of Louisiana.

B. Corrective modification and clarification are made as follows.

1. Whenever the referenced regulations (i.e., 40 CFR Part 60) provide authority to "the Administrator," such authority, in accordance with these regulations, shall be exercised by the administrative authority or his designee, notwithstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR Part 60) to be provided to "the Administrator" shall be provided to the Office of Environmental Assessment, Air Quality Assessment Division, where the state is designated authority by EPA as "the Administrator," or shall be provided to the Office of Environmental Assessment, Air Quality Assessment Division, and EPA where EPA retains authority as "the Administrator."

2. 40 CFR Part 60, Subpart A, Section 60.4 (b)(T) shall be modified to read as follows: State of Louisiana: Office of Environmental Assessment, Air Quality Assessment Division, Department of Environmental Quality.

B.3. - B.7. …

8. The minimum standards of the following emission guidelines of 40 CFR Part 60 that are incorporated by reference shall be applied to applicable units in the state.

40 CFR Part 60	Subpart Heading
* * * [See Prior Text in Subparts Cb -Cd]	
Subpart Ce	Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators
Subpart BBBB	Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999
* * * [See Prior Text in Subpart DDDD]	

C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants, published in the *Code of Federal Regulations* at 40 CFR Part 61, July 1, 2004, and specifically listed in the following table, are hereby incorporated by reference as they apply to sources in the state of Louisiana.

40 CFR Part 61	Subpart /Appendix Heading
* * *	
[See Prior Text in Subpart A – Appendix C]	

B. - C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2004, are hereby incorporated by reference as they apply to major sources in the state of Louisiana.

B. - C.3. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:

Chapter 53. Area Sources of Toxic Air Pollutants

Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources

§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2004, and specifically listed in the following table, are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

40 CFR Part 63	Subpart /Appendix Heading
* * *	
[See Prior Text in Subparts A – AAAA]	
Subpart IIIII	National Emission Standards for Hazardous Air Pollutants: Mercury Emission From Mercury Cell Chlor-Alkali Plants

B. - C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:

Chapter 59. Chemical Accident Prevention and Minimization of Consequences

Subchapter A. General Provisions

§5901. Incorporation by Reference of Federal Regulations

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68, July 1, 2004.

B. - C.6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000). LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), LR 31:

A public hearing will be held on June 28, 2005, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 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. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ251ft. Such comments must be received no later than June 28, 2005, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 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 AQ251ft. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

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; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Wilbert F. Jordan, Jr.
Assistant Secretary

0505#021

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment

Facility Name and Ownership/Operator Changes Process
(LAC 33:I.1901, 1903, 1905, 1907, 1909, and 1911;
III.505, 517, and 521; V.321 and 4303; VII.517;
and IX.2701, 2901, 2903, and 2905)(OS057)

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 Environmental Quality regulations, LAC 33:I.1901, 1903, 1905, 1907, 1909, and 1911; III.505, 517, and 521; V.321 and 4303; VII.517; and IX.2701, 2901, 2903, and 2905 (Log #OS057).

This Rule will provide a unified, streamlined process for name or ownership/operator changes at facilities under the purview of the air, LPDES, hazardous waste, and solid waste regulatory programs. The department's re-engineering resulted in the creation of a single entity to handle name or ownership/operator changes. The Governor's Environmental Task Force recognized that the regulatory processes for these changes were cumbersome for both the regulated community and the department's staff. Therefore, the task force recommended that the department create a streamlined process for all media. The project will occur in two stages. The first stage is being addressed in this proposed Rule and deals with only permitted media facilities. The second stage will address hazardous and solid waste generators and other miscellaneous programs. The basis and rationale for this rule are to allow a unified procedure for all media resulting in cleaner notification procedures for the regulated community.

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. Department Administrative Procedures
Chapter 19. Facility Name and Ownership/Operator Changes Process

§1901. Applicability

A. This Chapter applies to name and ownership/operator changes at facilities that are under the purview of the air, water, hazardous waste, and solid waste regulatory programs. Written notifications of these changes shall be submitted to the department for facilities applying for or holding air permits, Louisiana Pollutant Discharge Elimination System (LPDES) permits, hazardous waste permits, and solid waste permits. A name, ownership, and/or operator change will be considered a minor permitting action or administrative amendment.

B. When the ownership of a facility holding an LPDES permit changes and there is no change to the operator of that facility, a permit transfer is not required. Notification of the change of ownership is still required in accordance with LAC 33:I.1905.

C. This Chapter does not supersede any otherwise applicable requirements addressing administrative amendments or modifications in the air, LPDES, hazardous waste, and solid waste programs, in particular, applicable MACT rules or acid rain program requirements.

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:

§1903. Liability

A. The previous owner or operator retains responsibility for compliance with all permit terms and conditions until the administrative authority makes a determination regarding a change of ownership or operator as specified in this Chapter.

B. The previous owner or operator retains responsibility for compliance with the financial requirements until the new owner or operator has demonstrated that he or she is complying with the specified financial requirements of Title 33 of the Louisiana Administrative Code (e.g., LAC 33:V.Chapter 37, LAC 33:VII.727.A.1 and 2, and LAC 33:IX.Chapter 67).

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:

§1905. Name Change

A. Changes in the name only of a facility or of its owner/operator shall be made with written notification to the Office of Environmental Services. The owner or operator shall submit a complete Name/Ownership/Operator Change Form (NOC-1 Form) within 45 days after the change. This form may be found on the department's website.

B. Within 30 days after receipt of the complete notification of a change of name of a facility or of its owner/operator, the administrative authority shall notify the

owner/operator that the department has received and processed the name change. The effective date of the name change shall be the date indicated on the NOC-1 Form unless the administrative authority determines that a different date is appropriate, in which case the Office of Environmental Services shall notify the permit applicant of the actual effective date.

C. For permitted hazardous waste facilities, the permittee shall send a notice of the name change to all persons on the facility mailing list maintained by the administrative authority in accordance with LAC 33:V.717.A.5, and to the appropriate units of state and local government, as specified in LAC 33:V.717.A.2 and 4. This notification shall be made within 90 calendar days after the change is effective.

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:

§1907. Change of Ownership/Operator—No Financial Assurance Required

A. The administrative authority may approve the transfer of a permit to a new owner or operator where no financial assurance is required, based on the presence of the following factors:

1. assumption by the new owner or operator of liability for existing violations; and

2. evidence of managerial competence on the part of the new owner or operator (e.g., compliance history and compliance with LAC 33:I.1701).

B. Changes in the ownership or operational control of a facility shall be made with written notification to the Office of Environmental Services. The new owner or operator shall submit a Name/Ownership/Operator Change Form (NOC-1 Form) within 45 days after the change. A written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the previous and new permittees shall also be submitted to the administrative authority. The agreement shall be attached to the NOC-1 Form. The department may initiate action to terminate or revoke an existing media permit for a failure to disclose a change of ownership or operational control within 45 days after the change.

C. Within 30 days after receipt of the complete notification of a change of the ownership or operational control of a facility, the administrative authority shall notify the previous and new owners/operators of the department's approval or disapproval of the transfer of the permit to the new owner or operator based on its evaluation of the factors set forth in Subsection A of this Section. The department will also notify EPA of changes in Title V permits within the same timeframe. The effective date of the permit transfer shall be the date indicated on the NOC-1 Form unless the administrative authority determines that a different date is appropriate, in which case the Office of Environmental Services shall notify the permit applicant of the actual effective date.

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:

§1909. Change of Ownership/Operator—Financial Assurance Required

A. The administrative authority may approve the transfer of a permit to a new owner or operator where financial assurance is required, based on the following factors:

1. assumption by the new owner or operator of liability for existing violations;

2. demonstration of compliance with financial responsibility requirements by the new owner or operator; and

3. evidence of managerial competence on the part of the new owner or operator (e.g., compliance history and compliance with LAC 33:I.1701).

B. Changes in the ownership or operational control of a facility shall be made with written notification to the Office of Environmental Services. The new owner or operator shall submit a Name/Ownership/Operator Change Form (NOC-1 Form) within 45 days after the change. The department may initiate action to terminate or revoke an existing media permit for a failure to disclose a change of ownership or operational control within 45 days after the change. The following actions are also required to be completed in conjunction with the change of ownership/operator notification.

1. A written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the previous and new permittees shall be submitted to the administrative authority. The agreement shall be attached to the NOC-1 Form.

2. Permitted and interim status hazardous waste facilities shall also submit a revised Part I (i.e., Part A) permit application and Hazardous Waste Notification Form (HW-1 Form) in conjunction with the NOC-1 Form.

3. When a transfer of ownership or operational control occurs, the previous owner or operator shall comply with the applicable requirements of LAC 33:V.Chapter 37 (hazardous waste financial requirements), LAC 33:VII.727.A.1 and 2 (solid waste financial assurance requirements), and LAC 33:IX.Chapter 67 (water financial security requirements) until the new owner or operator has demonstrated that he or she is complying with the applicable requirements of LAC 33:V.Chapter 37, LAC 33:VII.727.A.1 and 2, and LAC 33:IX.Chapter 67.

4. The new owner or operator shall demonstrate compliance with the applicable requirements of LAC 33:V.Chapter 37, LAC 33:VII.727.A.1 and 2, and LAC 33:IX.Chapter 67 within six months of the date of the change of ownership or operational control of the facility. Upon demonstration to the administrative authority by the new owner or operator of compliance with these financial assurance requirements, the administrative authority shall notify the previous owner or operator that he or she no longer needs to comply with the financial assurance requirements as of the date of demonstration.

C. Within 45 days after receipt of the complete notification of a change of ownership or operational control of a facility, the administrative authority shall notify the previous and new owners/operators of the department's approval or disapproval of the transfer of the permit to the new owner or operator based on its evaluation of the factors set forth in Subsection A of this Section. The effective date

of the permit transfer shall be the date indicated on the NOC-1 Form unless the administrative authority determines that a different date is appropriate, in which case the Office of Environmental Services shall notify the permit applicant of the actual effective date.

D. For permitted hazardous waste facilities, the new permittee shall send a notice of the change of ownership or operational control to all persons on the facility mailing list maintained by the administrative authority in accordance with LAC 33:V.717.A.5, and to the appropriate units of state and local government, as specified in LAC 33:V.717.A.2 and 4. This notification shall be made within 90 calendar days after the administrative authority has provided a written response approving the notification and the change has been put into effect.

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:

§1911. Fees for Name and Ownership/Operator Changes

A. Notifications of name or ownership/operator changes at a facility shall be submitted by the new owner or operator with the appropriate fees. The fees listed below cover the cost of reviewing, evaluating, and processing a name or ownership/operator change that has occurred at the facility.

Name and Ownership/Operator Change Fees	
Program	**LAC Citation for Fee**
Air	LAC 33:III.223, Fee Number 2000
Hazardous Waste	LAC 33:V.5123.A
Solid Waste: Type I, I-A, II, and II-A facilities	LAC 33.VII.525.C (N/A for name change alone)
Solid Waste: Type III facilities or beneficial use facilities	LAC 33.VII.525.D (N/A for name change alone)
LPDES	LAC 33:IX.1309.D.4 (N/A for name change alone)

B. Method of Payment. All fee payments shall be made by check, draft, or money order payable to the Department of Environmental Quality and mailed to the department at the address provided on the NOC-1 Form.

C. Failure to Pay. Failure to pay the prescribed name change or ownership/operator change fee as provided herein shall result in the change request not being processed by the department.

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:

Part III. Air

Chapter 5. Permit Procedures

§505. Acid Rain Program Permitting Requirements

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

e. changes in the owners or operators, done in accordance with LAC 33:I.Chapter 19;

O.1.f. - S.6. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 21:678 (July 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2446 (November 2000), amended by the Office of Environmental Assessment, LR 31:

§517. Permit Applications and Submittal of Information

A. - F. ...

G. Change of ownership shall be done in accordance with LAC 33:I.Chapter 19.

H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20:1375 (December 1994), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:405 (April 1997), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2448 (November 2000), amended by the Office of Environmental Assessment, LR 30:2021 (September 2004), LR 31:

§521. Administrative Amendments

A. - A.2. ...

3. allows for a change in ownership at the source, in accordance with forms and guidance provided by the permitting authority and pursuant to LAC 33:I.Chapter 19;

A.4. - B.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, LR 31:

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental QualityCHazardous Waste

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§321. Modification of Permits

A. Any proposed major modification of a facility or a site, any change in wastes handled in either volume or composition, and any other change in the site, facility, or operations that materially deviates from a permit or materially increases danger to the public health or the environment must be reported in writing to the Office of Environmental Services prior to such an occurrence and a permit modification must be obtained in accordance with the application, public notice, and permit requirements of this Chapter. Any operator or ownership change shall be made in accordance with LAC 33:I.Chapter 19.

B. - B.1. ...

2. Changes in the ownership or operational control of a facility shall be made in accordance with LAC 33:I.Chapter 19.

C. - C.1.a. ...

i. The permittee must notify the Office of Environmental Services concerning the modification by certified mail or other means that establish proof of delivery within seven calendar days after the change is put into effect. This notice must specify the changes being made to permit

conditions or supporting documents referenced by the permit and must explain why they are necessary. Along with the notice, the permittee must provide the applicable information required by LAC 33:V.515-533, 2707, and 3115.

1.a.ii. - 10.b. ...

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 10:200 (March 1984), amended LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1691 (September 1998), LR 25:435 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000), LR 28:1000 (May 2002), LR 29:319 (March 2003), amended by the Office of Environmental Assessment, LR 31:

Chapter 43. Interim Status

§4303. Changes during Interim Status

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

4. changes in the ownership or operational control of a facility, which shall be done in accordance with LAC 33:I.Chapter 19;

A.5. - B.8. ...

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 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:1375 (December 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:484 (March 1999), amended by the Office of Environmental Assessment, LR 31:

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 5. Solid Waste Management System

Subchapter B. Permit System for Facilities Classified for Upgrade or Closure

§517. Permit Modifications

A. - A.1.a.ii. ...

b. All notifications of proposed changes in ownership of a permit for a facility shall be done in accordance with LAC 33:I.Chapter 19.

2. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2520 (November 2000), amended by the Office of Environmental Assessment, LR 30:2033 (September 2004), LR 31:

Part IX. Water Quality

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

Chapter 27. LPDES Permit Conditions

§2701. Conditions Applicable to All Permits

The following conditions apply to all LPDES permits. Additional conditions applicable to LPDES permits are in LAC 33:IX.2703. All conditions applicable to LPDES permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations (or the corresponding approved state regulations) must be given in the permit.

A. - L.2. ...

3. Transfers. This permit is not transferable to any person except after notice to the state administrative authority in accordance with LAC 33:I.Chapter 19. The state administrative authority may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the CWA or the LEQA. (See LAC 33:IX.2901; in some cases, modification or revocation and reissuance is mandatory.)

L.4. - N.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:724 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2553 (November 2000), LR 28:468 (March 2002), repromulgated LR 30:230 (February 2004), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 31:

Chapter 29. Transfer, Modification, Revocation and Reissuance, and Termination of LPDES Permits

§2901. Transfer of Permits

A. Transfers by Modification. Except as provided in LAC 33:IX.2901.B, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under LAC 33:IX.2903.A.2.b), or a minor modification has been made (under LAC 33:IX.2905 and in accordance with LAC 33:I.Chapter 19) to identify the new permittee and incorporate such other requirements as may be necessary under the CWA and the LEQA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:45 (January 2001), repromulgated LR 30:231 (February 2004), amended by the Office of Environmental Assessment, LR 31:

§2903. Modification or Revocation and Reissuance of Permits

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

b. the state administrative authority has received notification in accordance with LAC 33:I.Chapter 19 (as required in the permit, see LAC 33:IX.2701.L.3) of a proposed transfer of the permit. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer (LAC 33:IX.2901.B) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee.

3. ...

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 23:724 (June 1997), LR 23:1524 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2283 (October 2000), LR 27:45 (January 2001), LR 28:470 (March 2002), repromulgated LR 30:231 (February 2004), amended by the Office of Environmental Assessment, LR 31:

§2905. Minor Modifications of Permits

A. - A.3. ...

4. allow for a change in ownership or operational control of a facility, in accordance with LAC 33:I.Chapter 19, where the state administrative authority determines that no other change in the permit is necessary;

5.a. - 7. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:46 (January 2001), repromulgated LR 30:231 (February 2004), amended by the Office of Environmental Assessment, LR 31:

A public hearing will be held on June 28, 2005, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 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. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS057. Such comments must be received no later than July 5, 2005, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 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 OS057. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

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; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Wilbert F. Jordan, Jr.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Facility Name and Ownership/Operator Changes Process

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

There are no expected implementation costs or savings to state or local governmental units by the proposed Rule. Department staff will realize some reduction in process and review time as a result of the proposed Rule.

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

There is no estimated effect on revenue collections of state or local governmental units by the proposed Rule.

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, however, regulated entities will realize a reduction in paperwork as a result in the change in process implemented by the proposed Rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment by the proposed Rule.

Karen K. Gautreaux	Robert E. Hosse
Deputy Secretary	General Government Section Director
0505#034	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment

Financial Assurance Requirements
(LAC 33:XV.325 and 399)(RP039ft)

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.325 and 399 (Log #RP039ft).

This proposed Rule is identical to federal regulations found in 10 CFR 30.35 and Appendices D and E of Part 30 (2003), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4314, Baton Rouge, LA 70821-4314. 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).

Two new paragraphs and two appendices are added to Louisiana's radiation regulations to mirror the federal regulations for financial assurance. The amounts of financial assurance required for decommissioning by the licensees are also being increased to mirror the federal regulations. The department needs to increase the amounts of financial assurance required as suggested by the Nuclear Regulatory Commission because the amounts previously specified in the

regulations were based on decommissioning cost studies that were approximately 15 years old. The basis and rationale for this Rule are to mirror the federal regulations with regard to financial assurance requirements.

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

Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection
Chapter 3. Licensing of Radioactive Material
Subchapter D. Specific Licenses
§325. General Requirements for the Issuance of Specific Licenses

A. - C.5.d. ...

D. Financial Assurance and Recordkeeping for Decommissioning

1. Each applicant for a specific license authorizing the possession and use of unsealed radioactive material of half-life greater than 120 days and in quantities exceeding 10^5 times the applicable quantities set forth in LAC 33:XV.399.Appendix D shall submit a decommissioning funding plan as described in Paragraph D.6 of this Section. The decommissioning funding plan must also be submitted when a combination of isotopes is involved if R divided by 10^5 is greater than 1 (unity rule), where R is defined here as the sum of the ratios of the quantity of each isotope to the applicable value in LAC 33:XV.399.Appendix D.

2. Each holder of, or applicant for, any specific license authorizing the possession and use of radioactive material of half-life greater than 120 days and in quantities exceeding 10^{12} times the applicable quantities set forth in LAC 33:XV.399.Appendix D (or when a combination of isotopes is involved if R, as defined in Paragraph D.1 of this Section, divided by 10^{12} is greater than 1), shall submit a decommissioning funding plan as described in Paragraph D.6 of this Section. The decommissioning funding plan must be submitted to the department by December 2, 2005.

3. Each applicant for a specific license authorizing possession and use of radioactive material of half-life greater than 120 days and in quantities specified in Paragraph D.5 of this Section shall either:

a. submit a decommissioning funding plan as described in Paragraph D.6 of this Section; or

b. submit a certification that financial assurance for decommissioning has been provided in the amount prescribed by Paragraph D.5 of this Section using one of the methods described in Paragraph D.7 of this Section. For an applicant, this certification may state that the appropriate assurance will be obtained after the application has been approved and the license issued, but prior to the receipt of licensed material. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of Paragraph D.7 of this Section shall be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, before receipt of licensed material. If the applicant does not defer execution of the financial instrument, the applicant shall submit to the Office of Environmental Compliance, Emergency and Radiological Services Division, as part of the certification, a signed original of the financial instrument obtained to satisfy the requirements of Paragraph D.7 of this Section.

4. Each holder of a specific license of a type described in Paragraph D.1 or 2 of this Section shall provide financial assurance for decommissioning in accordance with the criteria set forth in this Section.

a. Each holder of a specific license of a type described in Paragraph D.1 of this Section shall submit a decommissioning funding plan, as described in Paragraph D.6 of this Section, or a certification of financial assurance for decommissioning in an amount at least equal to $1,125,000 in accordance with the criteria set forth in this Section. If the licensee submits the certification of financial assurance rather than a decommissioning funding plan, the licensee shall include a decommissioning funding plan in any application for license renewal.

b. Each holder of a specific license of a type described in Paragraph D.2 of this Section shall submit a certification of financial assurance for decommissioning, or a decommissioning funding plan, as described in Paragraph D.6 of this Section, in accordance with the criteria set forth in this Section.

c. Any licensee who has submitted an application for renewal of license in accordance with LAC 33:XV.333 shall provide financial assurance for decommissioning in accordance with Paragraphs D.1 and 2 of this Section. This assurance shall be submitted when this rule becomes effective.

d. Waste collectors and waste processors, as defined in LAC 33:XV.499.Appendix D, shall provide financial assurance in an amount based on a decommissioning funding plan as described in Paragraph D.6 of this Section. The decommissioning funding plan shall include the cost of disposal of the maximum amount (in curies) of radioactive material permitted by license, and the cost of disposal of the maximum quantity, by volume, of radioactive material that could be present at the licensee's facility at any time, in addition to the cost to remediate the licensee's site to meet the license termination criteria of LAC 33:Part XV. The decommissioning funding plan must be submitted by December 2, 2005.

5. The following table lists required amounts of financial assurance for decommissioning by quantity of material. Licensees required to submit the $1,125,000 amount shall do so by December 2, 2005. Licensees required to submit the $113,000 or $225,000 amount shall do so by June 2, 2006. Licensees having possession limits exceeding the upper bounds of this table shall base financial assurance on a decommissioning funding plan.

Greater than $l0^4$ but less than or equal to 10^5 times the applicable quantities of LAC 33:XV.399.Appendix D in unsealed form (for a combination of isotopes, if R, as defined in Paragraph D.1 of this Section, divided by 10^4 is greater than l but R divided by 10^5 is less than or equal to 1).	$1,125,000

Greater than 10^3 but less than or equal to 10^4 times the applicable quantities of LAC 33:XV.399.Appendix D in unsealed form (for a combination of isotopes, if R, as defined in Paragraph D.1 of this Section, divided by 10^3 is greater than l but R divided by 10^4 is less than or equal to 1).	$225,000
Greater than 10^{10} times the applicable quantities of LAC 33:XV.399.Appendix D in sealed sources or plated foils (for a combination of isotopes, if R, as defined in Paragraph D.1 of this Section, divided by 10^{10} is greater than 1).	$113,000

6. Each decommissioning funding plan shall contain a cost estimate for decommissioning and a description of the method of assuring funds for decommissioning from Paragraph D.7 of this Section, including means of adjusting cost estimates and associated funding levels periodically over the life of the facility. Cost estimates shall be adjusted at intervals not to exceed three years. The decommissioning funding plan shall also contain a certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning and a signed original of the financial instrument obtained to satisfy the requirements of Paragraph D.7 of this Section.

7. Financial assurance for decommissioning shall be provided by one or more of the following methods.

a. Prepayment. Prepayment is the deposit prior to the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs. Prepayment may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

b. Surety Method, Insurance, or Other Guarantee Method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in LAC 33:XV.399.Appendix B. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this Section. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in LAC 33:XV.399.Appendix B. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are as contained in LAC 33:XV.399.Appendix E. For nonprofit entities, such as colleges, universities, and nonprofit hospitals, a guarantee of funds by the applicant or licensee may be used if the guarantee and test are as contained in LAC 33:XV.399.Appendix F. A guarantee by the applicant or licensee may not be used in combination with any other financial methods used to satisfy the requirements of this Section or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning shall contain the following conditions.

i. The surety method or insurance must be open-ended or, if written for a specified term, such as five years, must be renewed automatically unless 90 days or more prior to the renewal date, the issuer notifies the Office of Environmental Compliance, Emergency and Radiological Services Division, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance must also provide that the full face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the department within 30 days after receipt of notification of cancellation.

ii. The surety method or insurance must be payable to a trust established for decommissioning costs. The trustee and trust must be acceptable to the department. An acceptable trustee includes an appropriate state or federal government agency or an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

iii. The surety method or insurance must remain in effect until the department has terminated the license.

c. External Sinking Fund. An external sinking fund shall have deposits made to it at least annually, and be coupled with a surety method or insurance, the value of which may decrease by the amount being accumulated in the sinking fund. An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities. The surety or insurance provisions must be as stated in Subparagraph D.7.b of this Section.

d. Statement of Intent. In the case of federal, state, or local government licensees, a statement of intent shall be included containing a cost estimate for decommissioning or an amount based on the table in Paragraph D.5 of this Section, and indicating that funds for decommissioning will be obtained when necessary.

e. Arrangement with Governmental Entity. When a governmental entity is assuming custody and ownership of a site, an arrangement shall be made that is deemed acceptable by such governmental entity.

8. Each person licensed under this Chapter shall keep records of information important to the decommissioning of the facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with LAC 33:XV.331.B, licensees shall transfer all records described in this Paragraph to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated. If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the department considers important to decommissioning consists of the following:

a. records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. These records may be limited to instances when contamination remains after any cleanup

procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. These records must include any known information on identification of involved nuclides, quantities, forms, and concentrations;

b. as-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used and/or stored, and of locations of possible inaccessible contamination such as buried pipes that may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations;

c. records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used;

d. except for areas containing only sealed sources (provided the sources have not leaked or no contamination remains after any leakage has occurred) or radioactive materials having only half-lives of less than 65 days, a list contained in a single document and updated every two years that shall be kept on the following:

i. all areas designated and formerly designated *restricted areas* as defined in LAC 33:XV.102;

ii. all areas outside of restricted areas that require documentation under Subparagraph D.8.a of this Section;

iii. all areas outside of restricted areas where current and previous wastes have been buried, as documented under LAC 33:XV.478; and

iv. all areas outside of restricted areas that contain material such that, if the license expired, the licensee would be required to either decontaminate the area to meet the criteria for decommissioning in LAC 33:XV.332.E, or apply for approval for disposal under LAC 33.XV.461.

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 23:1140 (September 1997), LR 24:2091 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1017 (May 2000), LR 26:2568 (November 2000), LR 27:1227 (August 2001), amended by the Office of Environmental Assessment, LR 31:44 (January 2005), LR 31:

Subchapter Z. Appendices

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

Schedule A - Appendix D, Note, Note. …

Appendix E

Criteria Relating To Use of Financial Tests and Self-Guarantee for Providing Reasonable Assurance of Funds for Decommissioning by Commercial Companies That Have no Outstanding Rated Bonds

A. Introduction. An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on furnishing its own guarantee that funds will be available for decommissioning costs and on a demonstration that the company passes the financial test of Subsection B of this Appendix. The terms of the self-guarantee are in Subsection C of this Appendix. This Appendix establishes criteria for passing the financial test for the self-guarantee and establishes the terms for a self-guarantee.

B. Financial Test

1. To pass the financial test a company must meet the following criteria:

a. tangible net worth greater than $10 million, or at least 10 times the total current decommissioning cost estimate (or the current amount required if certification is used), whichever is greater, for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor;

b. assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the total current decommissioning cost estimate (or the current amount required if certification is used) for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor;

c. a ratio of cash flow divided by total liabilities greater than 0.15 and a ratio of total liabilities divided by net worth less than 1.5.

2. In addition, to pass the financial test, a company must meet all of the following requirements.

a. The company's independent certified public accountant must have compared the data used by the company in the financial test, which is required to be derived from the independently audited year-end financial statements, based on United States generally accepted accounting practices, for the latest fiscal year, with the amounts in such financial statements. In connection with that procedure, the licensee shall inform the department within 90 days of any matters that may cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

b. After the initial financial test, the company shall repeat passage of the test within 90 days after the close of each succeeding fiscal year.

c. If the licensee no longer meets the requirements of Paragraph B.1 of this Appendix, the licensee shall send notice to the department of intent to establish alternative financial assurance as specified in department regulations. The notice shall be sent by certified mail, return receipt requested, within 90 days after the end of the fiscal year for which the year-end financial data show that the licensee no longer meets the financial test requirements. The licensee must provide alternative financial assurance within 120 days after the end of such fiscal year.

C. Company Self-Guarantee. The terms of a self-guarantee that an applicant or licensee furnishes must provide for the following.

1. The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the department. Cancellation may not occur until an alternative financial assurance mechanism is in place.

2. The licensee shall provide alternative financial assurance as specified in department regulations within 90

days following receipt by the department of a notice of cancellation of the guarantee.

3. The guarantee and financial test provisions shall remain in effect until the department has terminated the license or until another financial assurance method acceptable to the department has been put into effect by the licensee.

4. The applicant or licensee shall provide to the department a written guarantee (a written commitment by a corporate officer) that states that the licensee will fund and carry out the required decommissioning activities or, upon issuance of an order by the department, the licensee will set up and fund a trust in the amount of the current cost estimates for decommissioning.

Appendix F
Criteria Relating to Use of Financial Tests and Self-Guarantee For Providing Reasonable Assurance of Funds For Decommissioning by Nonprofit Colleges, Universities, and Hospitals

A. Introduction. An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on furnishing its own guarantee that funds will be available for decommissioning costs and on a demonstration that the applicant or licensee passes the financial test of Subsection B of this Appendix. The terms of the self-guarantee are in Subsection C of this Appendix. This Appendix establishes criteria for passing the financial test for the self-guarantee and establishes the terms for a self-guarantee.

B. Financial Test

1. For colleges and universities, to pass the financial test a college or university must meet either the criteria in Subparagraph B.1.a or the criteria in Subparagraph B.1.b of this Appendix:

a. for an applicant or licensee that issues bonds, a current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, or A as issued by Standard and Poors (S&P), or Aaa, Aa, or A as issued by Moodys;

b. for an applicant or licensee that does not issue bonds, unrestricted endowment consisting of assets located in the United States of at least $50 million, or at least 30 times the total current decommissioning cost estimate (or the current amount required if certification is used), whichever is greater, for all decommissioning activities for which the college or university is responsible as a self-guaranteeing licensee.

2. For hospitals, to pass the financial test a hospital must meet either the criteria in Subparagraph B.2.a or the criteria in Subparagraph B.2.b of this Appendix:

a. for an applicant or licensee that issues bonds, a current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, or A as issued by Standard and Poors (S&P), or Aaa, Aa, or A as issued by Moodys;

b. for an applicant or licensee that does not issue bonds, all of the following tests must be met:

i. total revenues less total expenditures, divided by total revenues, shall be equal to or greater than 0.04;

ii. long term debt divided by net fixed assets shall be less than or equal to 0.67;

iii. current assets and depreciation fund, divided by current liabilities, shall be greater than or equal to 2.55;

iv. operating revenues shall be at least 100 times the total current decommissioning cost estimate (or the current amount required if certification is used) for all decommissioning activities for which the hospital is responsible as a self-guaranteeing licensee.

3. In addition, to pass the financial test, a licensee must meet all of the following requirements.

a. The licensee's independent certified public accountant must have compared the data used by the licensee in the financial test, which is required to be derived from the independently audited year-end financial statements, based on United States generally accepted accounting practices, for the latest fiscal year, with the amounts in such financial statements. In connection with that procedure, the licensee shall inform the department within 90 days of any matters coming to the attention of the auditor that cause the auditor to believe that the data specified in the financial test should be adjusted and that the licensee no longer passes the test.

b. After the initial financial test, the licensee shall repeat passage of the test within 90 days after the close of each succeeding fiscal year.

c. If the licensee no longer meets the requirements of Paragraph B of this Appendix, the licensee shall send notice to the department of its intent to establish alternative financial assurance as specified in department regulations. The notice shall be sent by certified mail, return receipt requested, within 90 days after the end of the fiscal year for which the year-end financial data show that the licensee no longer meets the financial test requirements. The licensee must provide alternate financial assurance within 120 days after the end of such fiscal year.

C. Self-Guarantee. The terms of a self-guarantee that an applicant or licensee furnishes must provide for the following.

1. The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, and/or return receipt requested, to the department. Cancellation may not occur unless an alternative financial assurance mechanism is in place.

2. The licensee shall provide alternative financial assurance as specified in department regulations within 90 days following receipt by the department of a notice of cancellation of the guarantee.

3. The guarantee and financial test provisions shall remain in effect until the department has terminated the license or until another financial assurance method acceptable to the department has been put into effect by the licensee.

4. The applicant or licensee shall provide to the department a written guarantee (a written commitment by a corporate officer or officer of the institution) that states that the licensee will fund and carry out the required decommissioning activities or, upon issuance of an order by the department, the licensee will set up and fund a trust in

the amount of the current cost estimates for decommissioning.

5. If, at any time, the licensee's most recent bond issuance ceases to be rated in any category of "A" or above by either Standard and Poors or Moodys, the licensee shall provide notice in writing of such fact to the department within 20 days after publication of the change by the rating service.

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:

A public hearing will be held on June 28, 2005, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 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. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP039ft. Such comments must be received no later than June 28, 2005, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 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 RP039ft. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

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; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Wilbert F. Jordan, Jr.
Assistant Secretary

0505#022

NOTICE OF INTENT

Office of the Governor
Boxing and Wrestling Commission

Boxing and Wrestling Standards
(LAC 46:XI.Chapters 1, 3 and 5)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Boxing and Wrestling Commission hereby proposes the following Rule. This Proposed Rule is necessary to prevent the loss of tax revenues resulting from locations re-broadcasting television related events; require wrestling promoters/producers scheduling events to promote the safety and welfare of participants, commissioners and ring officials; to move rules to show correct placement, repealing rules which are not in effect; and to join with all sanctioning bodies that have now adopted the *Uniform Rules of Boxing* for championship bouts.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XI. Boxing and Wrestling

Chapter 1. General Rules

§101. Definitions

A. …

* * *

Emergency Medical Technician (EMT) a duly registered and state certified emergency medical services professional pursuant to LAC 46:XXXVIII.

* * *

Exhibition a boxing, kickboxing or martial arts engagement in which the boxers, kickboxers or martial arts contestants show or display their skill without necessarily striving to win. This definition excludes wrestling, pursuant to R.S. 4:75 and 76.

* * *

Physician a person possessing a doctor of medicine (allopathic/M.D.), doctor of osteopathy or doctor of osteopathic medicine degree (osteopathic/D.O.) or an equivalent degree duly awarded by a medical or osteopathic educational institution approved by the commission.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended LR 31:

§102. Annual License Fees

A. The following is a scale of fees for licensees.

1.	Promoters	$500
2.	Matchmakers	$500
3.	Referees	$ 25
4.	Managers	$ 25
5.	Announcers	$ 25
6.	Professional boxers	$ 25
7.	Seconds	$ 25

8. Professional wrestling contestants $ 25
9. Event coordinator $500
10. Other licenses $ 25

B. ...

AUTHORITY NOTE: Adopted in accordance with R.S. 4:65(B).

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§115. Medical Equipment Required

A. There shall be an ambulance no further than 300 feet from the ring and duly licensed EMT's or paramedics with appropriate resuscitation equipment no further than 100 feet away form the ring at all times. EMT's will be paid directly by the promoters/producers of events with fees in accordance with LAC Title 46:XXXVIII, Professional and Occupational Standards: Emergency Medical Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§117. Permit (formerly §303)

A. No contracts will be recognized or considered valid unless filed with the commission and until a permit is issued for the event by the commission. A permit fee of $250 for a non-television show and a permit fee of $2,000 for a television show will be required by the commission.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§119. Deposits: Closed Circuit and Pay-per-View Television Re-Broadcasting

A. All locations re-broadcasting television related events, will be required to deposit a maximum of $1,000, in advance for expenses and taxes. *Location* in this particular rule meaning any casino, public auditorium, hotel or civic center. Money, less taxes and expenses, will be refunded by the commission to producer if taxes collected do not equal amount deposited. If taxes exceed the deposit, then the commission will proceed with collecting taxes as outlined in Revised Statute 4:67. Sports bars with a 250 person capacity or less will be required to purchase a permit for $100; sports bars with a 400 person capacity or less will be required to purchase a permit for $200; over 400 person capacity a promoters license is required. If sports bars are part of a location, as defined in this rule, then the same rule will apply as a location. Five percent taxes will apply as indicated in Revised Statute 4:67. Complimentary passes or tickets are taxable if ticket prices are outlined in the television contract or advertised and sold at a specified price. The capacity of a location will be determined by the state/local fire marshal's office. Locations are required to obtain a promoters license from the commission; sports bars with a capacity of less than 400 are exempt from purchasing a promoters license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§121. Hold Harmless and Indemnity Agreement

A. All individuals, except the members of the commission, acting in any official capacity for any event(s) sanctioned by the commission shall be required to execute the Hold Harmless and Indemnity Agreement of the commission, prior to receiving any assignment from the commission. This shall be in addition to the agreement as set forth in the license application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:79.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§123. Ringside Physicians (formerly §326)

A. The ringside physicians shall be stationed at places designated by the commission.

B. The ringside physician may terminate any contest or exhibition at any time if in the opinion of such physician the health or well-being of any participant would be significantly jeopardized by continuation of the contest or exhibition. In the event of any serious physical injury, such physician shall immediately render any emergency treatment necessary, recommended further treatment or hospitalization if required, and fully report the entire matter to the commission within 24 hours, and thereafter, as required by the commission. Such physician may also require that the injured participant and his or her manager remain in the ring or on the premises or report to a hospital after the contest for such period of time as such physician deems advisable.

C. Any contrary provisions of these rules notwithstanding, the ringside physician may enter the ring during the progress of a bout at any time to fulfill his or her official duties. A ringside physician desiring to enter the ring for this purpose shall first signal the referee of his or her intention, upon which the referee shall stop the progress of the bout by signaling the timekeeper. At any time during the progress of a bout, the referee may stop the progress of the bout by signaling the timekeeper, and require the ringside physician to enter the ring to examine a participant. Nothing herein shall be deemed to prohibit the ringside physician from entering the ring to examine any contestant during the rest periods, with or without invitation from the referee.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D), R.S. 4:64 and R.S. 4:70.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), repromulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§125. Event Approval

A. A member of the Louisiana Boxing and Wrestling Commission, including the chairman, may not legally and/or officially authorize and/or give approval to any television network, corporation, limited liability company, promoter, match-maker or any other entity, private or corporate, for any major event date and site selection, without the prior approval of a majority of the commission members voting in favor. *Major Event* in this rule means any boxing, kick-boxing or wrestling (WCW, WWF, etc.) contests that the state of Louisiana authorizes this commission to sanction. Minor local wrestling shows may be excluded from this rule.

(Local area commissioners should coordinate these shows through the deputy commissioners and chairman, once they are made aware of such events.)

B. Once a commissioner is contacted by a promoter, he must advise the promoter that a typewritten request on official letterhead must be submitted to the chairman by mail or facsimile. In the request disclosure must be made regarding the venue (television contracts, promoter, matchmaker, number of bouts, bout contracts, arena contracts, sanctioning bodies, ticket information, etc.) After date and site selection is approved, full disclosure of all venue information must be submitted no later than two weeks prior to the event.

C. Once an official request is made, a quorum, according to state statute, must be attained to approve or reject such requests as per state open meeting laws. Emergency meetings will not be deemed necessary, if the time table is such, that the request may be discussed at an upcoming, regular scheduled commission meeting. Requests approved or rejected by quorum in the interim will be noted in the minutes of the next meeting of the commissioners.

D. The commission may demand that all monies relative to boxing venues be placed in escrow in the commission treasury. Monies in this rule means fighters purses and ring officials (referees, timekeepers, inspectors, physicians, judges, etc.) expenses. All ring officials pay will be predetermined and coordinated through the commission with the promoter. The ring officials will be paid by commission checks the same day or night before the start of the first bout. If the commission required fighters' purses to be placed in escrow then the fighters also will be paid by commission checks, less any expenses due the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D and R.S.4:64.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§127 Charity Events (formerly §343)

A. Permission to hold charity events must be obtained from the commission.

1. If expenses for the event are to be deducted from the proceeds, then a report estimating the expenses to be incurred shall be presented to the commission 21 days prior to the event for approval. The report shall contain an expense limit to be incurred for the event.

2. A final report showing the actual expenses incurred along with the amount of donated proceeds must be submitted to the commission no later than seven days after the event.

3. A receipt from the charitable organization must be included in the final report to the commission.

B. Shows advertised as charity events must announce in advance in the public press what contribution will be for charity and for what particular charity and this money must be paid before other expenses are deducted.

C. Should the entire proceeds, (except actual expenses) be given to charity, then this fact must be published. A complete report of all expenses and the actual amount turned over to charity must be available for the press on the day following the exhibition.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§129. Tickets and Sale of Tickets (formerly §349)

A. All tickets shall have a number, price and date printed or stamped plainly on the face of the ticket as well as the stub retained by the ticket holder. Any ticket sold or deposited in the ticket box that is not printed or stamped plainly with a price on the face of the ticket will be counted, for tax purposes, at a value or price of the highest price ticket sold for the event.

B. Tickets of different prices shall be printed or stamped on heavy paper of different colors. Use of passout tickets is prohibited unless the club receives written permission from the commission to use them.

C. Under no circumstances shall a ticket holder be passed through the gate without having the ticket separated from the stub, or be allowed to occupy a seat unless in possession of the ticket stub. The ticket taker at the door shall separate the ticket from the stub and deposit the ticket in the sealed box provided by the commission or the commission representative.

D. The commission or the commission representative shall check numbers and places of ticket boxes at the gates and cause them to be sealed and after the event, have them opened and tickets counted under his supervision.

E. The commission may approve the use of roll tickets. No advance sale of roll tickets shall be permitted. Each roll must be numbered and priced according to the color of the roll. The commission or representative of the commission must be informed of the price of the tickets before they can be sold. The starting ticket number of each roll must be recorded by the commission or the commission representative.

F. Promoters shall provide complimentary tickets or official passes to the commission for attendance of commissioners and commission staff to efficiently conduct commission business for the presentation of a good show. If necessary 30 complimentary tickets or passes will be provided.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D), R.S. 4:64 and R.S. 4:73.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), repromulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§131. Penalties and Sanctions

A. Anyone licensed and/or subject to the authority of the commission, who violates any of the rules and regulations of the commission as set forth in title, parts and chapters, shall be subject to such sanctions as imposed by the commission which may result in fines, suspensions and revocations of licenses to be determined by the commission pursuant to the laws of the state of Louisiana and the authority of the commission vested to the commission by those laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:82.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§133. Unauthorized Matchmakers, Promoters, Managers (formerly §351)

A. Anyone under the authority of the commission who deals with undercover matchmakers, promoters or managers of anyone not licensed by the commission shall be suspended by the commission.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), repromulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§135. Safety (formerly §337)

A. Licensed clubs shall take all necessary precautions looking toward safety, order and proper behavior.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), repromulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

Chapter 3. Professional Boxing

§314. Prohibited Ring Official Assignments

A. A ring official domiciled in the state of Louisiana shall not accept an assignment in the United States or its possessions that is not sponsored, sanctioned, approved or supervised by the commission, another official state commission, or a member of the Association of Boxing Commissions. *Official State Commission*, in this rule, meaning a commission domiciled and coming under the jurisdiction and regulatory powers of their state or United States possession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§315. Judges and Referees

A. - B.2. ...

C. The referee is the sole arbiter of a bout and is the only individual authorized to stop a contest.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D. R.S. 4:64 and R.S. 4:79.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§317. Judging Methods and Procedures

A. Scoring

1. - 1.d. ...

2. It is also noted that sportsmanship should be taken into consideration by the judges and the condition of the boxer at the end of the bout. The items listed do not have the same scoring value. Clearly, a man who hits his opponent and is aggressive throughout the contest is entitled to more credit than the one who is merely defensive and shows ring generalship. If the referee or the commission shall decide, at any time, that either contestant did not enter into a contest in good faith, or if the commission or referee discovers, at any time, that either or both contestants are not performing their part in good faith, or is guilty of any foul tactic, or of faking, or of violating any rule of the commission, the referee or commission may stop the contest. The referee may stop the contest when either contestant shows marked superiority or is apparently outclassed. If a contestant is knocked down, or falls through weakness, he must get up unassisted within 10 seconds. The referee shall count off the seconds. If the contestant attempts to get up, and goes back down, the count shall be continued by the referee where he left off. During the count, the opponent shall go to the farthest neutral corner and remain there. Should the opponent refuse to do so, or leave the farthest neutral corner, the referee may stop counting. Upon compliance by the opponent, however, the referee shall continue counting where he left off. If a contestant, who has fallen out of the ring during a contest, fails to return immediately, the referee shall count him out as if he were "down" allowing 20 seconds. In every round but the last round of a bout, should a boxer be down at the time the bell rings ending the round, the count shall continue until the boxer gets up or is counted out. The termination of the bout is at the discretion of the referee and/or the ring physician. Should a contestant leave the ring during the one-minute period between rounds, and fail to be in the ring when gong rings to resume boxing, the referee shall declare his opponent the winner. A contestant shall be deemed "down" when:

a. any part of his body other than his feet is on the floor;

b. or he is hanging helplessly over the ropes;

c. or he is rising from a "down" position.

3. Answering the Bell. Should a contestant finish any one round of a contest and fail to answer the bell for the succeeding round for any one of numerous reasons, such as cuts, injuries or admission of overwhelming superiority, the proper termination of the bout is by a technical knockout in the round for which he fails to answer the bell. For instance, both contestants have finished round 6. One of them fails to answer the bell for round 7, or indicates to the referee that he will not answer the bell. It is a "TKO-7." Indeed the man should be regarded as technically counted out while seated in his corner just as though the bell sounded for the seventh round. Certainly he completed round 6 and cannot, therefore, be charged with a loss in the sixth. Boxers suffering a knockout or a technical knockout will automatically be suspended for a minimum period of 30 days. Any violation of this rule jeopardizes the welfare of the boxer. No boxer will be reinstated in less than 30 days unless investigated and specifically authorized by the commission or commission physician.

B. In the event a boxer has been knocked down the referee shall order such boxer's opponent to a neutral corner and commence a count of eight and such mandatory eight count after knockdowns is standard procedure in all bouts. Upon completion of said eight count the referee shall determine whether such boxer is able to continue.

C. There is no standing eight count.

D. When a boxer loses his mouthpiece, the referee shall call time as soon as possible and instruct such boxer's seconds to promptly wash or replace such boxer's mouthpiece and re-install same. If a referee determines that a

boxer has deliberately spit out his mouthpiece for any reason, the referee shall issue a warning for the first such infraction and instruct the judges at the end of the round following a second such infraction to deduct one point from their scores for such boxer for that round. A boxer may be disqualified for deliberately spitting out his mouthpiece for the third time in any one round and his opponent declared the winner.

E. At the end of each round, each judge shall mark his or her scorecard in ink or indelible pencil with the score of each boxer in such round, and shall deliver the scorecard to the referee, who shall in turn deliver the scorecard of all judges to the commission.

F. At the conclusion of a contest or exhibition, except a contest or exhibition which has been concluded by knockout, technical knockout or disqualification, the commission shall tally the total points awarded to each participant and inform the announcer of the decision of the three judges.

G. The announcer shall announce the decision of the judges from the ring, and in the main events, the announcer shall call out the total points awarded by each judge. The boxer who has more points on the scorecard of the official is the winner on that judge's scorecard. The boxer who has been awarded the decision on at least two of the three judge's scorecard is the winner of the bout. In the event that neither boxer has been awarded the decision on at least two of the three judge's scorecard the decision shall be a draw, majority draw and all other possibilities.

H. The judges shall score a knockdown in any one round in a manner which is consistent with §317.A.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D, R.S.4:64, R.S. 4:76 and R.S. 4:79.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§318. Rounds, Duration and Intermission

A. Rounds shall be a minimum of 180 seconds long and 120 seconds long for female boxers.

B. There shall be a 60-second intermission between rounds, unless otherwise directed or authorized by the commission. The referee, at the request of the ringside physician, may extend this intermission, if necessary to examine a participant, for up to 30 additional seconds.

C. Each championship contest will be scheduled for 12 rounds, 180 seconds long, and a 60 second rest period.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§321. Fouls, Deductions of Points Because of a Foul and Accidental Fouling

A. - A.17. ...

B. If a contestant fouls his opponent during a contest or commits any other infraction, the referee may penalize him by deducting points from his score, whether or not the foul or infraction was intentional. The referee may determine the number of points to be deducted in each instance and shall base his determination on the severity of the foul or infraction and its effect upon the opponent. Point deductions for intentional fouls are mandatory.

C. If an intentional foul causes an injury, and the injury is severe enough to terminate the bout immediately, the boxer causing the injury shall lose by disqualification.

D. If an intentional foul causes an injury, and the injury results in the bout being stopped in a later round, the injured boxer will win by a technical decision if he is ahead on the score cards or the bout will result in a technical draw if the injured boxer is behind or even on the score cards.

E. If a boxer injures himself while attempting to intentionally foul his opponent, the referee will not take any action in his favor, and this injury will be the same as one produced by a fair blow.

F. When the referee determines that it is necessary to deduct a point or points because of a foul or infraction, he shall warn the offender of the penalty to be assessed.

G. The referee shall, as soon as practical after the foul, notify the judges and both contestants of the number of points, if any, to be deducted from the score of the contestant.

H. Any point or points to be deducted for any foul or infraction must be deducted in the round in which the foul or infraction occurred, and may not be deducted from the score of any subsequent round.

I. Accidental Foul

1. If a bout is stopped because of an accidental foul, the referee shall determine whether the boxer who has been fouled can continue or not. If the boxer's chance of winning has not been seriously jeopardized as a result of a foul, the referee may order the bout continued after a reasonable interval. Before the bout begins again, the referee shall inform the commission's representative of his determination that the foul was accidental.

2. If the referee determines that the bout may not continue because of an injury suffered as the result of an accidental foul, the bout will result in a no decision if stopped before four completed rounds.

3. If an accidental foul renders a contestant unable to continue the bout after four completed rounds have occurred the bout will result in a technical decision awarded to the boxer who is ahead on the score cards at the time the bout is stopped.

a. After the fourth round has been completed, partial or incomplete rounds shall be scored.

b. However, any point deduction(s) occurring during this partial round will be deducted from the score of the completed rounds.

J. If an injury inflicted by an accidental foul later becomes aggravated by fair blows and the referee orders the bout stopped because of the injury, the outcome must be determined by scoring the completed rounds and the round during which the referee stops the bout.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D and R.S.4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§335. Compensation of Officials

A. All officials (judges, referees, timekeepers, inspectors, event coordinators, etc.) that participate in an event sanctioned by the commission, shall be compensated by the promoters/producers. The amount compensated will be pre-determined, prior to the event, between the commission and the promoter/producer. Officials, in this rule, are not to include members of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

Chapter 5. Professional Wrestling

§523. Wrestling Booking Agent

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission, 1967, amended 1974, repealed by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§525. Wrestling Promoters

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission, 1967, amended 1974, repealed by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§527. Application of Professional Boxing Rules

A. The following conditions specifically described in the professional boxing rules also apply to professional wrestling: appearance, weight, the fulfilling of contracts, ring introductions, acceptance of decision, managers, timekeepers, physicians, seconds, coaching, clothing worn by attendants, ring equipment, water bottles and buckets, betting, and notifying men before the contest.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission, 1967, amended 1974, amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

All interested persons are invited to submit comments, views or positions on these proposed Rules, in writing, to A.L. "Buddy" Embanato, Chairman, Louisiana State Boxing and Wrestling Commission, P.O. Box 13126, Monroe, LA 71213 or by facsimile at (318) 362-4628.

A.L. "Buddy" Embanato,
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Boxing and Wrestling Standards

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

There will be no costs to implement these rules other than the minimal cost to publish in the Louisiana Register and minimal cost of emergency meetings, which are rare and only held in extreme circumstances so as to keep cost impact to the state low.

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

There will be no effect on revenue collections. Our intent is the repromulgation of rules already in place by moving rules that were separately in the Boxing and Wrestling Chapters to the General Rules.

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

There will be no costs or economic benefits to any affected persons or groups as our intent is the re-promulgation of rules already in place by moving these rules from the Boxing and Wrestling Chapters to the General Rules with the exception of the adoption of new rule §115, Medical Equipment Required (EMT). This new rule will have a cost impact on the promoters/producers of events who will be required to pay this expense. The amounts paid to EMT's are set as required by LAC Title 46:XXXVIII. The adoption of this rule will benefit the participants/contestants in sanctioned events to ensure prompt emergency treatment of injuries.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment.

Patrick C. McGinity	H. Gordon Monk
Attorney	Staff Director
0505#018	Legislative Fiscal Office

NOTICE OF INTENT

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

Peace Officer Training (LAC 22:III.Chapter 47)

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., 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. There will be no impact on family earnings and family budget as set forth in R.S. 49:972.

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

§4701. Definitions

A. The following terms, as used in these regulations, shall have the following meanings:

Governmental Entity any board, authority, commission, department, office, division, or agency of the state or any of its local political subdivisions.

Law Enforcement Training Course a basic or advanced course of study certified by the Council on Peace Officer Standards and Training (POST), for the purpose of educating and training persons in the skills and techniques of a peace officer in the discharge of his duties.

Peace Officer any full-time employee of the state, a municipality, a sheriff or other public agency, whose

permanent duties actually include the making of arrests, the performing of searches and seizures, or the execution of criminal warrants, and is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, highway laws of this state, but not including any elected or appointed head of a law enforcement department. Peace officer also includes those sheriff's deputies whose duties include the care, custody and control of inmates, and full time military police officers within the Military Department, State of Louisiana.

Training Center any POST accredited school, academy, institute, or any place of learning whatsoever, which offers or conducts a law enforcement or corrections training course.

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 13:434 (August 1987), LR 25:662 (April l999), LR 31:

§4703. Basic Certification

A. …

1. Level 1 Certification for Basic Law Enforcement Peace Officers

a. …

b. The curriculum for the basic law enforcement training course of *Level 1* peace officers shall be developed and approved by the POST council. Curriculum updates shall be authorized and implemented by the council as needed.

c. The 3rd Edition of the POST Basic Training Curriculum is effective for any basic *Level 1* training class that begins at an accredited academy after July 1, 2005.

2. Level 2 Certification for Basic Correctional Peace Officer

a. - b. ...

c. The curriculum for the basic training course for *Level 2* correctional officers shall be developed and approved by the POST Council. Curriculum updates shall be authorized and implemented by the Council as needed.

A.3. - E. ...

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 13:434 (August 1987), amended LR 25:663 (April 1999), LR 27:49 (January 2001), LR 28:475 (March 2002), LR 31:

§4715. Instructor Qualifications

A. - B.3. ...

4. shall attend POST-sponsored instructor retrainers as required by POST. Update workshops for Corrections instructors shall be held annually (effective July 1, 2005).

C. - C.2. …

D. POST Firearms Instructors

1. Eligibility

a. All applicants must be a *Level 1* basic peace officer that is full time and must have two years of full time practical law enforcement experience and be POST certified or grandfathered in under the current POST law.

b. If an instructor changes full time employment status (retires, part time or reserve), he/she is no longer a current P.O.S.T. certified firearms instructor. Only full time officers are eligible to be current P.O.S.T. certified firearms instructors. Only P.O.S.T. firearms instructors can teach, score targets and sign any paperwork.

2. Qualification Day for P.O.S.T. Firearms Instructor School

a. Each agency is allowed to submit two (2) names for consideration. The nomination form must be signed by the academy director or agency head (sheriff/chief).

b.i. The three courses of fire are:

(a). bullseye (80 percent);

(b). FBI Tactical Revolver Course (80 percent); and

(c). POST Qualification Course (90 percent).

ii. These courses must be shot with an approved duty weapon.

c. A written exam will be administered on that day which will include basic firearms, safety, etc. as taught in basic training.

d. A minimum score of 80 percent is acceptable on the written exam, Bullseye and FBI Tactical Revolver Course.

e. A minimum score of 90 percent is acceptable for the POST Qualification Course. Only one attempt at qualifying at each course and the written test is acceptable. Pre-qualifications scores (on qualification day) are for admission purposes only and are not counted toward grade point average in the school.

3. P.O.S.T. Firearms Instructor School:

a. Students will be required to attend all sessions of training and must qualify on all courses of fire.

b. There will be a written exam each Friday with 80 percent constituting a passing grade.

c. All students must maintain at least an 80 percent grade point average throughout the course in order to successfully complete the course and graduate.

d.i. Grade points will be divided among the various segments of the school:

(a). written exams;

(b). oral and written presentations; and

(c). range qualifications.

ii. It is not possible for a student to fail both written examinations and still pass the course.

E. Retrainers for P.O.S.T. Firearms Instructors

1. Attendance at the firearms retrainers is required to maintain POST firearms instructor certification. This class is mandatory.

2. If for any reason instructor misses a retrainer two years in a row, their POST firearms instructor certification is revoked. The instructor must attend another firearms instructor school (classroom portion only 40 hrs.) to reactivate their certification.

3. The firearms retrainer is held at least twice every year at different locations.

4. If a POST firearms instructor misses the first retrainer, the instructor must be requalified with 90 percent (at least 108) within 90 days by a POST staff member or the POST firearm instructor designee.

5. If a POST firearms instructor is medically excused from the retrainer qualification, the instructor must requalify with 90 percent (at least 108) within 90 days by a POST staff member or the POST designee after released from their physician. This instructor must attend the classroom portion of the retrainer if physically able.

6. Any POST firearms instructor who fails to qualify the first time at the retrainer must shoot again and average the two scores. If the instructor fails to qualify with 90 percent (at least 108) with the averaged two scores, the instructor will be suspended for 90 days and allowed one opportunity to requalify by a POST staff member or the POST designee upon completion of suspension.

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 13:434 (August 1987), amended LR 25:664 (April 1999), LR 31:

§4725. POST Approved Shotgun Course

A. - A.5. ...

B. Buckshot Phase. Recommend use of 9-pellet "OO." Buckshot (may also be fired with any buckshot.)

1. - 4. …

5. Total score should equal 80 percent with or without the Slug Phase.

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 30:435 (March 2004), amended LR 31:

Interested persons may submit written comments on this proposed Rule no later than June 25, 2005 at 5 p.m. to Bob Wertz, Peace Officer Standards and Training Council, Louisiana Commission on Law Enforcement, l885 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)

Implementation of the proposed rule will not have any impact on expenditures for state or local governmental units.

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

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

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

It is estimated that implementation for the proposed rule will have little or no effect on directly affected persons or non-governmental groups. Long standing POST policies regarding eligibility and certification of Firearms Instructors are being moved into administrative rules.

A minor change to the passing score for the POST approved Shotgun will align it to the passing scores for the POST approved hand gun and patrol rifle courses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect of competition or employment in the public or private sector as a result of this proposed amendment.

Michael A. Ranatza
Executive Director
0505#057

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Crime Victims Reparations Board

Reparations Eligibility (LAC 22:XIII.301)

In accordance with the provisions of R.S. 46:1801 et seq., the Crime Victims Reparations Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Crime Victims Reparations Board hereby gives notice of its intent to promulgate rules and regulations to clarify the eligibility of crime victims for reparations. There will be no impact on family earnings and family budget as set forth in R.S. 49:972.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part XIII. Crime Victims Reparations Board
Chapter 3. Eligibility and Application Process
§301. Eligibility

A. To be eligible for compensation, an individual must have suffered personal injury, death or catastrophic property loss as a result of a violent crime.

1. Contribution

a. The Crime Victims Reparations Board may vote not to make an award to a claimant who is a victim, or who files an application on behalf of a victim, when any of the following occurs:

i. the victim was convicted of, or serving a sentence for, a felony offense, within the last five years prior to the filing of an application for reparations;

1.a.ii. - 3.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:538 (May l994), amended LR 22:709 (August l996), amended LR 31:

Interested persons may submit written comments on this proposed Rule no later than July 12, 2005, at 5 p.m. to Bob Wertz, Deputy Assistant Director, Commission on Law Enforcement and Administration of Criminal Justice, 1885 Wooddale Boulevard, Room 1230, Baton Rouge, LA 70806.

Lamarr Davis
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Reparations Eligibility

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

It is estimated that implementation of the proposed rule will not cause an increase in state expenditures. The board is currently interpreting the proposed rule in this manner and it should not cause any reduction of the number of persons eligible for reparations. Clarification was needed to specify when an application for reparations would not be approved.

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

It is estimated that implementation of the proposed rule will not increase revenue collections of state or local governmental units.

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

It is estimated that implementation of the proposed rule will have little or no effect on directly affected persons or non-governmental groups. The adoption of the rule seeks to clarify the situations in which applicants for reparations would not be approved.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of this proposed amendment.

Michael A. Ranatza Executive Director 0505#058	H. Gordon Monk Staff Director Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Nursing

Registration and Licensure Fees
(LAC 46:XLVII.3341)

Notice is hereby given, in accordance with the provisions of the Administrative Procedures Act, R.S.49:950 et seq., that the Board of Nursing (Board) pursuant to the authority vested in the board by R.S.37:918, R.S.37:927 intends to adopt a Rule amending the professional and occupational standards pertaining to fees for registration and licensure. The proposed amendment of the rules are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLVII. Nurses
Subpart 2. Registered Nurses
Chapter 33. General
Subchapter C. Registration and Registered Nurse Licensure
§3341. Fees for Registration and Licensure

A. Notwithstanding any provisions of this Chapter, the board shall collect in advance fees for licensure and administrative services as follows.

1. Licensure

a.	RN Examination Application	$100
b.	RN Endorsement Application	$100
c.	Enrollment Application	$ 20
d.	RN Renewal Fee	$ 80
e.	RN Late Fee (plus Renewal Fee)	$ 25
f.	Retired License Fee (one time fee)	$ 80
g.	RN Reinstatement Application Fee	$100
h.	Initial APRN Licensure Application	$100
i.	RN/APRN Endorsement Temporary Permit Fee	$ 50
j.	APRN Endorsement Application	$100
k.	APRN Renewal Fee	$ 80
l.	APRN Late Fee (plus Renewal Fee)	$ 25
m.	APRN Reinstatement Application Fee	$100
n.	APRN Prescriptive Authority Application	$100
o.	APRN Prescriptive Authority Site Change	$ 25
p.	Reinstatement of Prescriptive Authority Privileges	$ 50
q.	Verification of Licensure	$ 25
r.	Duplicate Application	$ 10
s.	Duplicate License	$ 10

2. Miscellaneous

a.	Consultation	$100/hour
b.	Photocopies	$ 0.50/page
c.	Certified Documents	$ 1/page
d.	Listing of Registered Nurses/Advanced Practice Registered Nurses	$10 programming fee plus costs as follows: $0.02/per name on disk
e.	Special Programming Request	Actual Costs (minimum $100 per program)

B. Fees for Returned Checks

1. The board shall collect a $25 fee for returned checks for any of the fees discussed in LAC 46:XLVII.3341.A.

2. If the nurse fails to make restitution within 14 days from the date of the letter of notification of the returned check, then the nurse's current license shall become lapsed and practice as a Registered Nurse is no longer legal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918 and R.S. 37:927.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 8:417 (August 1982), amended by the Department of Health and Hospitals, Board of Nursing, LR 14:533 (August 1988), LR 22:981 (October 1996), repromulgated LR 24:1293 (July 1998), amended LR 26:84 (January 2000), LR 30:2829 (December 2004), LR:31:

Family Impact Statement

The Louisiana State Board of Nursing hereby issues this Family Impact Statement: The proposed Rule related to the board's licensure fees will have minimal impact on family formation, stability, and autonomy, as set forth in R.S.49:972, in that Registered Nurses or Advanced Practice Registered Nurses will be required to pay additional fees to maintain licensure in Louisiana.

Interested persons may submit written comments on the proposed Rule to Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 N. Causeway Blvd., Suite 601, Metairie, LA 70002. The deadline for receipt of all written comments is 4:30 p.m. on June 10, 2005.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Registration and Licensure Fees

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

It is anticipated that no additional staff or operating expenses will be needed to implement these changes. The only cost for implementation is for the publication of the rule change in the Louisiana Register estimated to be approximately $136 in fiscal year 05-06 and $136 in 06-07.

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

The board anticipates a total increase in revenues amounting to approximately $1,636,125 for each of the fiscal years 05-06, 06-07 and 07-08. The increases are based on the historical totals associated with each license renewal category. The board has assumed that all totals will remain relatively steady over the three fiscal years. Assumptions are as follows: RN license renewals estimated at 41,750 nurses with an increase from $45 per renewal to $80. This will generate approximately an additional $1,461,250 in revenues for each of the fiscal years. Late RN renewals are estimated at 1,650 renewals with the fee decreasing from $90 per renewal to $80 per renewal. This will decrease revenues by approximately $16,500. APRN license renewals estimated at 2,175 advanced practice nurses with an increase from $50 per renewal to $80. This will generate approximately an additional $65,250 in revenues for each of the fiscal years. Late APRN renewals are estimated at 125 renewals with the fee decreasing from $100 per renewal to $80 per renewal. This will decrease revenues by approximately $2,500. A new fee or fine for late renewals will be introduced with a charge of $25 per late renewal (both for RN and APRN) licenses. This fee will generate approximately $44,375 in revenues in each of the three fiscal years reported. A new fee of $50 for work permits through endorsement will be instituted for those RN's and APRN's requesting this service. It is estimated that 1,000 permits will be requested, which will increase revenues by approximately $50,000 for each of the three fiscal years. Reinstatement of licenses at a fee of $100 for both RN's and APRN's will increase revenues $33,000 and $1,250 respectively for the three fiscal years reported.

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

The proposed rule will require RNs and APRNs to pay additional fees to maintain licensure through the LSBN.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Barbara L. Morvant	H. Gordon Monk
Executive Director	Staff Director
0505#056	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Veterinary Medicine

Veterinary Practice Wellness Clinic
(LAC 46:LXXXV.700 and 711)

The Louisiana Board of Veterinary Medicine proposes to amend and adopt LAC 46:LXXXV.700 and 711 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 et seq., and the Louisiana Veterinary Practice Act, La. R.S. 37:1569. This text is being amended to clarify and implement the regulatory requirements of a licensed veterinarian conducting a wellness or preventative care clinic in keeping with its function as defined by the State Legislature in the Veterinary Practice Act. The Rule will clarify and implement requirements for a veterinarian licensed by the board to administer vaccines, perform examinations, and/or diagnostic procedures to promote good health, excluding treatment for a diagnosed disease, illness or medical condition, at a location other than a veterinary hospital, clinic, or mobile clinic. The proposed Rule amendment has no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The proposed amendment to the rules is set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXXV. Veterinarians
Chapter 7. Veterinary Practice
§700. Definitions

* * *

Wellness or Preventative Care Clinic a service in which a veterinarian licensed by the board administers vaccine, performs examinations, and/or diagnostic procedures to promote good health, excluding treatment for a diagnosed disease, illness or medical condition, at a location other than a veterinary hospital, clinic, or mobile clinic. A program for the administration of rabies vaccination conducted at a location solely for the specific purpose of rabies prevention shall not be considered a wellness or preventative care clinic.

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 19:1328 (October 1993), amended LR 20:660 (June 1994), LR 20:1381 (December 1994), LR24:940, 941 (May 1998), LR 24:1932 (October 1998), LR 24:2257 (December 1998), LR 27:51 (January 2001), LR 27:543 (April 2001), LR 31:

§711. Definitions and Classification of Practice Facilities

A. - D.2. ...

E. A wellness or preventative care clinic shall have a published physical address for the specific location, telephone facilities for responding to emergency situations, and the following.

1. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall have a prior written agreement with a local veterinary hospital or clinic, within a 30 mile- or 30 minute-travel time, to provide laboratory services, hospitalization, surgery, and/or radiology, if these services are not available at the wellness or preventative care clinic.

2. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall have a prior written agreement with a local veterinary hospital or clinic, within a 30 mile- or 30 minute-travel time, to provide emergency care services. A notice of available emergency care services, including the telephone number and physical address of the local veterinary hospital or clinic, shall be posted in a conspicuous place at the wellness or preventative care clinic, and a copy of the notice or information shall be given to each client prior to the administration of a vaccine, the performance of an examination and/or a diagnostic procedure to promote good health.

3. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall physically remain on site until all patients are discharged to their respective owners, or authorized agents.

4. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall comply with the requirements for record keeping regarding

the storage, maintenance and availability to the client of the medical records for the patients as set forth in the board's rules on record keeping. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall be the owner of the medical records of the patients.

5. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall be responsible for consultation with clients and the prompt referral of patients when disease, illness or a medical condition is diagnosed.

6. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall be responsible for the information and representations provided to the clients by the staff at the wellness or preventative care clinic.

7. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall have his license or current renewal, in good standing, to practice veterinary medicine in Louisiana on display in a conspicuous place at each location of a wellness or preventative care clinic.

8. Operation of a wellness or preventative care clinic shall also have the following on site at each location:

a. a clean, safe location;

b. meet local and state sanitation requirements;

c. lined waste receptacles;

d. fresh, running water for cleaning purposes and first aid;

e. an examination area with good lighting and smooth, easily disinfected surfaces;

f. all drugs, medicines, or chemicals shall be stored, inventoried, prescribed, administered, dispensed, and/or used in accordance with federal, state and local laws and rules;

g. all equipment shall be kept clean and in proper working order;

h. the ability to address sudden life-threatening emergencies which may arise, including the availability, on site, of oxygen, resuscitation drugs, treatment for shock, and fluid administration materials; and

i. the proper disposal of biomedical waste and the required facilities, on site, for such disposal, as well as documentation on site to verify the proper disposal of biomedical waste.

9. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall make all decisions which involve, whether directly or indirectly, the practice of veterinary medicine and will be held accountable for such decisions in accordance with the Veterinary Practice Act, the board's rules, and other applicable laws.

10. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall be responsible for compliance with all standards and requirements set forth in the Veterinary Practice Act, the board's rules, and other applicable laws.

11. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall provide a copy of any signed written agreement, including renewal, extension or amendment, required by this rule to the board prior to commencement of the terms of the agreement.

12. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall provide the board, upon written demand, a copy of the written agreement with the local veterinary hospital or clinic required by this rule.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1330 (October 1993), amended LR 23:969 (August 1997), LR 24:2123 (November 1998), LR 31:

Interested parties may submit written comments to Wendy D. Parrish, Administrative Director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801, or by facsimile to (225) 342-2142. Comments will be accepted through the close of business on June 15, 2005. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on Thursday, June 23, 2005, at 10:00 am at the office of the Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, Louisiana.

Wendy D. Parrish
Administrative Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Veterinary PracticeCWellness Clinic

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

There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendment (estimated at $200 in FY 2005). Licensees will be informed of this rule change via the board's regular newsletter or other direct mailings, which result in minimal costs to the board.

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

There will be no effect on revenue collections of state or local governmental units as no increase in fees will result from the amendment.

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

The proposed Rule amendment clarifies and implements the regulatory requirements of a licensed veterinarian conducting a wellness or preventative care clinic in keeping with its function as defined by the State Legislature in the Veterinary Practice Act. The Rule will allow a veterinarian licensed by the board to administer vaccines, perform examinations, and/or diagnostic procedures to promote good health, excluding treatment for a diagnosed disease, illness or medical condition, at a location other than a veterinary hospital, clinic, or mobile clinic.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result of the proposed Rule.

Wendy D. Parrish	H. Gordon Monk
Administrative Director	Acting Legislative Fiscal Officer
0505#029	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Office of the Secretary
Bureau of Community Supports and Services

Targeted Case Management Nurse Family Partnership Program (LAC 50:XV.Chapter 111)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services proposes to amend LAC 50.XXI.11101-11105 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 promulgated a Rule to establish case management services for a new targeted population group composed of first time mothers who resided in designated Department of Health and Hospitals (DHH) administrative regions (*Louisiana Register*, Volume 26, Number 12). In addition, the December 20, 2000 Rule established specific staffing requirements for case management agencies serving the new targeted population. The bureau later promulgated a rule to expand this program to include three additional DHH regions and change the name of the program from Nurse Home Visits for First Time Mothers to the Nurse-Family Partnership Program (*Louisiana Register*, Volume 29, Number 8). The bureau subsequently promulgated these rules in the Louisiana Administrative Code (*Louisiana Register*, Volume 30, Number 5). The bureau now proposes to amend the May 20, 2004 Rule to expand the DHH regions served and amend the eligibility criteria and staffing qualifications.

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 implementation of this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972. The proposed Rule will expand the availability of case management services for those families who meet the target population criteria.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 7. Targeted Case Management
Chapter 111. Nurse Family Partnership Program

§11101. Introduction

A. Nurse Family Partnership (NFP) targeted case management is a prenatal and early childhood intervention program designed to improve the health and social functioning of Medicaid eligible first time mothers and their babies.

A. NFP case management is available in all Department of Health and Hospitals (DHH) administrative regions.

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 Community Supports and Services LR 30:1041 (May 2004), amended LR 31:

§11103. Recipient Qualifications

A. ...

1. is expecting her first live birth and has never parented a child;

2. has previously been pregnant, but experienced a stillbirth; or

3. is expecting her first live birth, but has parented stepchildren or younger siblings.

A.4. - 6. Repealed.

B. - B.3. ...

C. After the birth of the child, the focus of Nurse Family Partnership (NFP) case management is transferred from the mother to the child and services may continue until the child's second birthday. However, recipients may not receive more than one type of Medicaid funded case management at a time. To incorporate the child's needs into the plan of care, a complete reassessment and an update of the comprehensive plan of care must be completed within six weeks of the date of delivery and no less than 35 days prior to the child's first birthday. If during the reassessment it is determined that the child qualifies for services offered under Part C of the Individuals with Disabilities Education Act (IDEA) and Infants and Toddlers case management, the NFP case manager shall refer the child to the Early Steps Program.

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 Community Supports and Services LR 30:1041 (May 2004), amended LR 31:

§11105. Staff Qualifications

A. - A.1. ...

2. certification of training in the Nurse Family Partnership Program (formerly the David Olds Prenatal and Early Childhood Nurses Home Visit Model).

B. ...

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 Community Supports and Services LR 30:1042 (May 2004), amended LR 31:

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 Sue Merrill, Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, June 27, 2005 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. 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: Targeted Case Management
Nurse Family Partnership Program

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

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately $327,803 for FY 05-06, $428,467 for FY 06-07, and $441,317 for FY 07-08. It is anticipated that $340 ($170 SGF and $170 FED) will be expended in FY 04-05 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately $768,527 for FY 05-06, $1,004,533 for FY 06-07 and $1,034,659 for FY 07-08. $170 is included in FY 04-05 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 proposed rule amends the regions served, eligibility criteria and staffing qualifications of the Nurse Family Partnership Program. It is anticipated that implementation of this proposed rule will increase expenditures by $1,096,330 for FY 05-06, $1,433,000 for FY 06-07 and $1,475,976 for FY 07-08.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Ben A. Bearden	H. Gordon Monk
Director	Staff Director
0505#045	Legislative Fiscal Office

NOTICE OF INTENT

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

American Indians Health Services
Tribal "638" Facilities
(LAC 50:XV.Chapters 201-207)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XV.Chapters 201-207 under 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 Health Care Financing Administration, now the Centers for Medicare and Medicaid Services (CMS), entered into a Memorandum of Agreement (MOA) with the Indian Health Service (IHS) to allow states to claim 100 percent federal medical assistance percentage for payments made by the state for services rendered to Medicaid eligible American Indians and Alaska Natives through an IHS owned or leased facility or a tribal "638" facility. Tribal "638" facilities are those facilities owned and operated by American Indian and Alaska Native tribes and tribal organizations with funding authorized by Title I or III of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, as amended). The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to enroll "638" facilities owned and operated by federally recognized American Indian tribes to participate in the Medicaid Program.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing adopts the following provisions governing Medicaid coverage and reimbursement of health services provided to American Indians through tribal "638" facilities in Louisiana.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 15. Health Services for American Indians
Chapter 201. General Provisions
§20101. Reserved.
§20103. Cancellation of Participation

A. A "638" facility's participation in the Medicaid Program may be cancelled if it is determined that the facility is not providing care in compliance with Medicaid regulations and/or state laws.

B. The Department of Health and Hospitals may, at its discretion, cancel the participation of these facilities if:

1. it determines that the health care needs of the Louisiana's American Indian population are not being met by the facility; or

2. CMS discontinues the terms of the Memorandum of Agreement with Indian Health Service which allow states to claim 100 percent federal medical assistance percentage for payments made by the state for services rendered to Medicaid eligible American Indians through an IHS owned or leased facility or a tribal "638" facility.

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 31:

Chapter 203. Provider Participation Requirements
§20301. "638" Facilities

A. In order to participate in the Medicaid Program as a "638" facility, the facility must provide health services and be operated by:

1. a Federally recognized tribe that meets the definition as set forth in 25 U.S.C. §1603(d), or

2. a tribal organization as that term is defined in 25 U.S.C. §450b(*l*), or

3. an inter-tribal consortium as that term is defined in 25 U.S.C. §458aaa(a)(5).

B. A "638" facility must:

1. comply with all provider enrollment requirements for the Louisiana Medicaid Program, including an attestation stating they will only seek reimbursement for services rendered to Medicaid eligible tribe members and Medicaid eligible individuals who are statutorily eligible under 25 U.S.C. §1680c (a) to receive treatment at an IHS facility;

2. employ or have a contractual agreement with the licensed health professionals who will perform the required services included in the encounter rate. These health care professionals must meet the participation standards required for Medicaid enrollment of their respective provider type;

3. comply with the Medicaid rules and regulations governing those services included in the facility's encounter rate;

4. assure that services will be provided on-site; and

5. have a physician on-site at least 20 hours per week during normal business hours and other health care professionals available as needed.

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 31:

Chapter 205. Recipient Eligibility

§20501. Target Population

A. A recipient qualifies as a member of the target population if he/she meets the definition of an Indian as set forth in 25 U.S.C. §1603 (c) or the definition of a statutorily eligible individual as set forth in 25 U.S.C. §1680c(a)(1) and (2).

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 31:

Chapter 207. Covered Services

§20701. Outpatient Services

A. A "638" facility shall provide preventive, diagnostic, therapeutic, rehabilitative or palliative services that are furnished to outpatients by or under the direction of a:

1. physician;
2. dentist;
3. physician's assistant;
4. psychologist or licensed counselor;
5. nurse practitioner, nurse midwife or clinical nurse specialist;
6. x-ray technician; or
7. pharmacist.

B. The facility shall furnish covered services as an "encounter," which is defined as a face-to-face visit between a facility health professional and an eligible patient for the purpose of providing outpatient services. An encounter shall, at a minimum, consist of the following:

1. a detailed history (chief complaint, history of present illness, problem pertinent system review, pertinent past history/social);

2. a detailed exam (extended exam of the affected body area(s) and other symptomatic or related organ systems); and

3. low to moderate complexity of medical decision making based on the number of possible diagnoses/management options; the amount and complexity of medical records, diagnostic tests and other information to be reviewed; and the risk of complications, morbidity and/or mortality associated with the patient's presenting problems.

C. The following services shall be provided on-site by the "638" facility and included as part of the encounter:

1. physician and mid-level practitioner services;
2. dental services;
3. psychological services;
4. prescription drugs services;
5. laboratory services;
6. x-ray services; and
7. nutrition services.

D. The facility may not bill an encounter rate if the only "services" performed were tasks incidental to services including, but not limited to:

1. taking blood pressure and temperature;
2. giving an injection;
3. changing dressings;
4. diagnostic procedures
5. laboratory services such as EKG, Peak Flow, Spirometry Respiratory Flow Volume, Loop and injections; or
6. a referral for other services.

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 31:

§20703. Service Limitations

A. Consultations with more than one facility health professional on the same day and at a single location constitute a single encounter. Services shall not be arbitrarily delayed or split in order to bill additional encounters. A maximum of one encounter per recipient per 24 hour period shall be reimbursed.

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 31:

§20705. Reimbursement Methodology

A. Reimbursement shall be the encounter rate established by the U.S. Department of Health and Human Services, Indian Health Service for "638" facilities.

B. Reimbursement for prescribed drugs is included in the encounter rate when the prescription is dispensed during the same time period as a visit with one or more facility health professionals. Reimbursement for refilling a prescription shall be the established encounter rate for the facility.

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 31:

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.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by facilitating access to the services offered by the tribal clinics.

Interested persons may submit written comments to Ben A. Bearden at the 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 Monday, June 27, 2005 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested person 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, MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: American IndiansCHealth Services Tribal "638" Facilities

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 04-05. It is anticipated that $816 ($408 SGF and $408 FED) will be expended in FY 04-05 for the state s administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by $408 for FY 04-05, $2,036 for FY 05-06 and $2,443 for FY 06-07. It is anticipated that $408 will be expended in FY 04-05 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 enroll "638" facilities owned and operated by federally recognized American Indian tribes (4 Louisiana tribes) to participate in the Medicaid Program. As a result of a Memorandum of Agreement between the Centers for Medicare and Medicaid Services and the Indian Health Service, 100 percent federal medical assistance percentage is available for payments made by the state for services rendered to Medicaid eligible American Indians through a tribal "638" facility. It is anticipated that implementation of this proposed rule will increase expenditures for Medicaid services for American Indians by $2,036 for FY 05-06 and $2,443 for FY 06-07 (100% Federal Funds).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Ben A. Bearden	H.Gordon Monk
Director	Staff Director
0505#044	Legislative Fiscal Office

NOTICE OF INTENT

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

Early and Periodic Screening, Diagnosis and Treatment Program Health Services Reimbursement; Early Intervention for Infants and Toddlers with Disabilities (LAC 50:XV.7107, 8103-8109)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:XV.7101 and repeal 8103-8109 under 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 a Rule to establish early intervention services for infants and toddlers with disabilities under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program (*Louisiana Register*, Volume 30, Number 4) in conjunction with the transfer of Louisiana's early intervention system under Part C of the Individuals with Disabilities Education Act (IDEA) from the Department of Education, Division of Special Populations to the Department of Health and Hospitals, Office of Public Health. As a result of a budgetary shortfall, the bureau promulgated an Emergency Rule to reduce the reimbursement for early intervention services for infants and toddlers with disabilities by 25 percent (*Louisiana Register*, Volume 31, Number 2). The bureau now proposes to repeal LAC 50:XV.8103-8109 and repromulgate the provisions governing reimbursement for early intervention services for infants and toddlers with disabilities in LAC 50:XV.71 and to continue the provisions of the February 1, 2005 Emergency Rule.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement rates by 25 percent for health services provided through the Early Steps Program (Part C of IDEA) for infants and toddlers with disabilities under the Early and Periodic Screening, Diagnosis and Treatment Program.

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.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 5. Early and Periodic Screening,Diagnosis, and Treatment

Chapter 71. Health Services

§7107. Reimbursement

A. Early Steps (Part C of IDEA). The reimbursement for health services rendered to infants and toddlers with disabilities who are age birth to 3 years shall be the lower of billed charges or 75 percent of the rate (a 25 percent reduction) in effect on January 31, 2005.

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 30:800 (April 2004), amended LR 31:

Chapter 81. Early Intervention Services for Infants and Toddlers with Disabilities

§8103. Recipient Qualifications

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 30:800 (April 2004), repealed LR 31:

§8105. Covered Services

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 30:800 (April 2004), repealed LR 31:

§8107. Provider Participation

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 30:800 (April 2004), repealed LR 31:

§8109. Reimbursement

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 30:800 (April 2004), repealed LR 31:

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 Ben A. Bearden, 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 Monday, June 27, 2005 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Early and Periodic Screening, Diagnosis and Treatment ProgramCHealth Services Reimbursement; Early Intervention for Infants and Toddlers with Disabilities

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

It is anticipated that implementation of this proposed rule will result in an estimated cost avoidance to the state of $328,319 for FY 04-05, $842,661 for FY 05-067, and $867,941 for FY 06-07. It is anticipated that $272 ($136 SGF and $136 FED) will be expended in FY 04-05 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 implementation of this proposed rule will reduce federal revenue collections by $811,483 for FY 04-05, $1,975,602 for FY 05-06, and $2,034,870 for FY 06-07. $136 is included in FY 04-05 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

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

This rule, which continues the provisions of the February 1, 2005 emergency rule, proposes to reduce the reimbursement rates by 25 percent for early intervention services for infants and toddlers (age birth to 3 years, approximately 2,500 recipients) with disabilities under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program and repeal the provisions of LAC 50:XV Chapter 81 Early Intervention Services. It is anticipated that implementation of this rule will decrease reimbursement in the EPSDT Program by $1,140,074 for FY 04-05, $2,818,263 for FY 05-06, and $2,902,811 for FY 06-07.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there may be a negative effect on employment as a result of the implementation of this proposed rule.

Ben A. Bearden	H. Gordon Monk
Director	Staff Director
0505#043	Legislative Fiscal Office

NOTICE OF INTENT

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

Medicaid Eligibility Treatment of Loans, Mortgages, Promissory Notes and Other Property Agreements

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by LA. 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.

Section 13611 of the Omnibus Budget Reconciliation Act of 1993 amended Section 1917(c) of the Social Security Act and added Section 1917(d) to set forth the rules under which transfers of assets and trusts must be considered in determining eligibility for Medicaid. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule promulgating the Medicaid Eligibility Manual in its entirety by reference, including Section I-1600 which addresses the treatment of resources in the eligibility determination process (*Louisiana Register*, Volume 22, Number 5). The bureau amended the May 20, 1996 Rule by emergency rule to revise Medicaid policy in regard to treatment of certain loans, mortgages, promissory notes, and property agreements in the Medicaid eligibility determination process (*Louisiana Register*, Volume 31, Number 4). These changes are needed to curb abuse of the regulations set forth in the transfer of assets section of the Omnibus Budget Reconciliation Act of 1993. The bureau now proposes to promulgate a Rule to continue the provisions of the April 20, 2005 Emergency Rule.

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.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions of the May 20, 1996 rule governing treatment of transfer of assets in the determination of Medicaid eligibility. This policy change applies to applications, renewals of eligibility or changes in situation for all individuals except for those persons receiving Supplemental Security Income (SSI) or deemed to be receiving SSI.

Definitions

A. Unless otherwise specifically provided herein, the words and terms used in this Rule shall be defined as follows:

Entities include, but are not limited to, partnerships, corporations, limited liability corporations, sole proprietorships, and any other entity or group.

Family Member/Relative includes, but is not limited to, the following categories of relatives of the applicant for medical assistance:

a. adopted child;
b. stepchild;
c. stepparent;
d. stepsister or stepbrother;
e. mother- or father-in-law;
f. daughter- or son-in-law;
g. sister- or brother-in-law; or
h. any descendants, ascendants, or collaterals by blood or consanguinity.

Loans, Mortgages, Promissory Notes, and Property Agreements or Assignments

A. A loan, mortgage, promissory note, property agreement or property assignment is a countable resource and a potential transfer of assets. If a loan, mortgage, promissory note, property agreement or property assignment is made by or between family members or relatives, the full face value of the instrument will be a countable resource in Medicaid eligibility determination regardless of any non-negotiability, non-transferability or non-assignability provisions contained therein. This policy shall also apply to any such instruments by or between any entities owned, either partially or wholly, by family members or relatives of the applicant for medical assistance.

B. Existing loans, mortgages, promissory notes, property agreements or property assignments which are labeled non-negotiable, non-assignable or non-transferable, will be evaluated in regard to whether the buyer has been making good faith efforts (i.e., making scheduled payments) since the agreement was executed to fulfill the contractual obligation. Failure to make good-faith efforts to fulfill the contractual obligation shall result in the full face value of the instrument being considered a countable resource in Medicaid eligibility determination.

Instruments Containing Certain Provisions

A. Regardless of any non-assignability, non-negotiability or non-transferability provisions contained therein, any loans, mortgages, promissory, property agreements or property assignments executed with any individual or entity which contains any of the following provisions will be considered a resource without any further evaluation:

1. payments are not in equal monthly installments (contain balloon payments or interest only payments) even if the principle is due within life expectancy;
2. terms for repayment that exceed the holder's life expectancy;
3. self-canceling clauses;
4. interest rates at execution are less than the national prime rate; or
5. clauses that forgive a portion of the principal.

B. Existing loans, mortgages, promissory notes, property agreements or property assignments which are labeled non-negotiable, non-assignable or non-transferable and were established before the effective date of this rule will be evaluated under transfer of resource policy.

Interested persons may submit written comments to Ben A. Bearden, 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 Monday, June 27, 2005 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, 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: Medicaid EligibilityCTreatment of Loans, Mortgages, Promissory Notes and Other Property Agreements

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

It is anticipated that implementation of this proposed rule will result in an estimated cost avoidance to the state of $615,350 for FY 04-05, $3,433,089 for FY 05-06 and $3,536,082 for FY 06-07. It is anticipated that $408 ($204 SGF and $204 FED) will be expended in FY 04-05 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 implementation of this proposed rule will reduce federal revenue collections by $1,520,842 for FY 04-05, $8,048,814 for FY 05-06 and $8,290,278 for FY 06-07. $204 is included in FY 04-05 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

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

This rule, which continues provisions of the April 20, 2005 emergency rule, proposes to revise Medicaid policy in regard to treatment of certain loans, mortgages, promissory notes, and property agreements in the Medicaid eligibility determination process in order to curb abuse of the transfer of assets. The proposed rule would prevent individuals with excess income from qualifying for Medicaid (approximately 370 per year). It is anticipated that implementation of this proposed rule will

result in an estimated cost avoidance of $2,136,600 for FY 04-05, $11,481,903 for FY 05-06 and $11,826,360 for FY 06-07.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no effect on competition and employment as a result of the implementation of this proposed rule.

Ben A. Bearden
Director
0505#042

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Targeted Case Management Reimbursement
(LAC 50:XV.10701)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:XV.10701 under 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 repromulgated the rules governing optional targeted case management services under the Medicaid Program for inclusion in the Louisiana Administrative Code (*Louisiana Register*, Volume 30, Number 5). The provisions governing targeted case management services for infants and toddlers who are age birth through 36 months were included in the May 20, 2004 Rule. As a result of a budgetary shortfall, the bureau promulgated an Emergency Rule to reduce reimbursement for targeted case management services for infants and toddlers by 25 percent *(Louisiana Register*, Volume 31, Number 2). The bureau now proposes to continue the provisions of the February 1, 2005 Emergency Rule.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for targeted case management services for infants and toddlers.

Title 50
PUBLIC HEALTHCMEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 7. Targeted Case Management
Chapter 107. Reimbursement
§10701. Reimbursement

A. - B.2. …

C. Effective for dates of service on or after February 1, 2005, the reimbursement rate for targeted case management services for infants and toddlers shall be 75 percent of the rate (a 25 percent reduction) in effect on January 31, 2005.

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 30:1040 (May 2004), amended LR 31:

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.

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 the Ben A. Bearden, 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 Monday, June 27, 2005 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, 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: Targeted Case ManagementCReimbursement

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

It is anticipated that implementation of this proposed rule will result in an estimated cost avoidance to the state of $150,468 for FY 04-05, $386,290 for FY 05-06, and $397,880 for FY 06-07. It is anticipated that $204 ($102 SGF and $102 FED) will be expended in FY 04-05 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 implementation of this proposed rule will reduce federal revenue collections by $371,958 for FY 04-05, $905,651 for FY 05-06, and $932,820 for FY 06-07. $102 is included in FY 04-05 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

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

This rule, which continues the provisions of the February 1, 2005 emergency rule, proposes to reduce the reimbursement rates by 25 percent for targeted case management services for infants and toddlers birth through 3 years old. It is anticipated that implementation of this rule will decrease reimbursement for targeted case management services (33 providers serving approximately 4,500 recipients) by $522,630 for FY 04-05, $1,291,941 for FY 05-06, and $1,330,700 for FY 06-07.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there could be a negative effect on employment as a result of the implementation of this proposed rule.

Ben A. Bearden
Director
0505#046

H. Gordon Monk
Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Telemedicine (LAC 50:I.501 and 505)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:I.501 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act pertaining to telemedicine. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Telemedicine is generally described as the use of an interactive audio and video telecommunications system to permit real time communication between distant site health care practitioners and patients. This technology is used by health care providers for many reasons, including increased cost efficiency, reduced transportation expenses, improved patient access to specialists, improved quality of care and better communication among providers.

In compliance with the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996, the Department of Health and Hospitals, Bureau of Health Services Financing mandated the use of standardized procedure codes, definitions and modifiers for billing Medicaid claims. The bureau now proposes to require that Medicaid providers use a standardized modifier to identify services provided via telemedicine.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing Medicaid services furnished via telemedicine.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 1. General Provisions
Chapter 5. Telemedicine
§501. Introduction

A. Telemedicine is the use of an interactive audio and video telecommunications system to permit real time communication between a distant site health care practitioner and the recipient.

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 31:

§505. Claim Submissions

A. Medicaid covered services provided via an interactive audio and video telecommunications system (telemedicine) shall be identified on claim submissions by appending the Health Insurance Portability and Accountability Act (HIPAA) of 1996 compliant modifier 'GT' to the appropriate procedure code.

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 31:

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

Interested persons may submit written comments to Ben A. Bearden at the 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 Monday, June 27, 2005 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested person 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, MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Telemedicine

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 04-05. It is anticipated that $136 ($68 SGF and $68 FED) will be expended in FY 04-05 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 04-05. It is anticipated that $68 will be expended in FY 04-05 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 require Medicaid providers to identify services provided via Telemedicine. The purpose of the rule is to collect information to identify

the number of providers using Telemedicine to render services. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for FY 05-06, FY 06-07 and FY 07-08.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Ben A. Bearden	H. Gordon Monk
Director	Staff Director
0505#047	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Corrections Services

Death Penalty (LAC 22:I.103)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Louisiana Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of §103, Death Penalty.

The purpose of the amendment of the aforementioned regulation is so that it may cite the statutory requirements of R.S. 15:567.1 regarding mental competency.

Title 22

Part I. CORRECTIONS

Chapter 1. Secretary's Office

§103. Death Penalty

A. Purpose. To set forth procedures to be followed for the lethal injection of those individuals sentenced to death.

B. Applicability. Chief of Operations, Assistant secretary and the wardens of the Louisiana State Penitentiary and the Louisiana Correctional Institute for Women.

C. Incarceration Prior to Execution. Male inmates sentenced to death shall be incarcerated at the Louisiana State Penitentiary at Angola, Louisiana. Female inmates sentenced to death shall be incarcerated at the Louisiana Correctional Institute for Women at St. Gabriel, Louisiana. Until the time for execution, the warden shall incarcerate the inmate in a manner affording maximum protection to the general public, the employees of the department, and the security of the institution. Female inmates shall be transported to the Louisiana State Penitentiary for execution as directed by the secretary.

D. Mental Competency. Pursuant to the provisions of R.S. 15:567.1, a person who is not competent to proceed to execution may not be executed. A person is not competent to proceed to execution when he lacks the competence to understand that he is to be executed, and the reason he is to suffer that penalty. Any person sentenced to death may raise the issue of his mental incompetence to proceed to execution by filing an appropriate petition in the sentencing court. A person acting as petitioner's "next friend" or the Secretary of the Department of Public Safety and Corrections may also file the petition. The petition shall contain the information enumerated in R.S. 15:567.1C. The sentencing court shall then determine the inmate's mental competency in accordance with R.S. 15:567.1.

E. Visits

1. Prior to the scheduled execution, the warden may approve special visits for the condemned inmate.

2. Visits will normally terminate by 3 p.m. on the day of the execution except visits with a priest, minister, religious advisor, or attorney which will terminate at the direction of the warden or his designee.

F. Media Access

1. Pursuant to the provisions of Department Regulation No. C-01-013, the media may contact the warden's office to request interviews. If the warden, inmate, and attorney (if represented by counsel) consent, the interview shall be scheduled for a time convenient to the institution.

2. Should the demand for interviews be great, the warden may set a day and time for all interviews to be conducted and may specify whether interviews will be done individually or in "press conference" fashion.

G. Pre-Execution Activities

1. The warden shall select an appropriate area to serve as a press room.

2. In the five days prior to the execution, access to the execution room will be restricted in accordance with institution policy.

3. All persons selected as witnesses will sign copies of the witness agreement prior to being transported to the execution room.

H. Time And Place. The execution shall take place at the Louisiana State Penitentiary between the hours of 6 p.m. and 9 p.m. (R.S. 15:570C.)

I. Witnesses

1. The execution shall take place in the presence of the following witnesses:

a. the warden of the Louisiana State Penitentiary or designee;

b. the coroner of West Feliciana Parish or deputy;

c. a physician chosen by the warden;

d. a competent person selected by the warden to administer the lethal injection; and

e. a priest, minister, or religious advisor, if the inmate so requests.

2. Not less than five nor more than seven other witnesses are required by law to be present. [R.S. 15:570(A)] These witnesses will be selected as follows.

a.i. Three witnesses will be members of the news media selected by the secretary from the following categories:

(a). a representative from the Associated Press;

(b). a representative selected from the media persons requesting to be present from the parish where the crime was committed; and

(c). a representative selected from all other media persons requesting to be present.

ii. These witnesses must agree to act as pool reporters for the remainder of the media present and meet with all media representatives immediately following the execution.

b. The remaining witnesses will be selected by the secretary from persons who he feels have a legitimate interest in being present.

3. Victim relationship witnesses are authorized to attend the execution [R.S. 15:570(D).]

a. At least 10 days prior to the execution, the secretary shall give either written or verbal notice, (followed by written notice placed in the United States mail within five days thereafter), of the date and time of execution to the victim's parents, or guardian, spouse and any adult children who have indicated to the secretary that they desire such notice. The named parties shall be given the option of attending the execution and shall, within three days of their receipt of the notification, notify, either verbally or in writing, the secretary's office of their intention to attend.

b. The number of victim relationship witnesses may be limited to two. If more than two victim relationship witnesses desire to attend the execution, the secretary is authorized to select from the interested parties the two victim relationship witnesses who will be authorized to attend.

4. All witnesses must be residents of the state of Louisiana, over 18 years of age and all must agree to sign the report of the execution. (R.S. 15:570-571)

J. Procedures

1. The witnesses will enter the witness room where they will receive a copy of the inmate's written last statement, if a written statement is issued.

2. The inmate will then be taken to the lethal injection room by the escorting officers. Once in the room, the inmate will be afforded the opportunity to make a last verbal statement if he so desires. He will then be assisted onto the lethal injection table and properly secured to the table by the officers. Once the officers exit the room, the warden will close the curtain to the witness room and signal the I.V. technician(s) to enter. The I.V. technician(s) will appropriately prepare the inmate for execution and exit the room. The warden will reopen the witness room curtain.

3. The person designated by the warden and at the warden's direction, will then administer, by intravenous injection, the appropriate substances in a lethal quantity into the body of the inmate until he is deceased.

4. At the conclusion of the execution, the coroner or his deputy shall pronounce the inmate dead. The deceased shall then be immediately taken to an awaiting ambulance for transportation to a place designated by the next of kin or in accordance with other arrangements made prior to the execution.

5. The warden will make a written report reciting the manner and date of the execution which he and all of the witnesses will sign. The report shall be filed with the clerk of court in the parish where the sentence was originally imposed. (R.S. 15:571)

6. No employee, including employee witnesses to the execution, except the secretary or the warden or their designee, shall communicate with the press regarding any aspect of the execution except as required by law.

7. No cameras or recording devices, either audio or video, will be permitted in the execution room.

8. The identity of the persons, other than those specified in Subsection I.1.a, b, c, and d, 2, and 3, who participate in an execution, either directly or indirectly, shall remain strictly confidential and shall not be subject to public disclosure in any manner whatsoever.

AGREEMENT BY WITNESS TO EXECUTION

I, _____, a person of full age and majority, and citizen of the state of Louisiana, hereby agree to the following conditions precedent to being a witness to the execution of a sentence of death at Louisiana State Penitentiary, Angola, Louisiana.

1. I agree that my presence at the execution is voluntary.
2. I agree to sign the report of the execution as required by law.
3. I agree to comply with all rules and regulations of the Department of Public Safety and Corrections and the Louisiana State Penitentiary during the course of the proceedings leading up to, during, and after the completion of the execution.
4. I agree that I will not electronically record or photograph any activities while I am present in the lethal injection room.
5. I agree to submit to a search of my person before and after the execution if requested to do so by the warden of the Louisiana State Penitentiary.
6. If I am a member of the press selected as a witness to the execution, I agree to act as a pool reporter for the media representatives not present at the execution, and I agree to meet with all media representatives present at the penitentiary immediately after the execution.
7. If I am an employee of the Department of Public Safety and Corrections, I agree that I will make no public statements about the execution without prior approval of the warden of the Louisiana State Penitentiary.

I have read the above agreement, understand it, and have signed it in the presence of the listed witnesses on this date_____.
(Day, Month, Year)

_____ WITNESSES TO SIGNATURE:
Signature of Selected Witness _____
_____

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:567-571 (as amended by Act No. 717 of the 1990 Regular Session of the Louisiana Legislature, by Act No. 159 of the 1991 Regular Session, Act No. 145 of the 2002 First Extraordinary Session and Act No. 283 of the 2003 Regular Session).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the Secretary, LR 6:10 (January 1980), amended LR 7:177 (April 1981), amended by the Department of Public Safety and Corrections, Corrections Services, LR 17:202 (February 1991), LR 18:77 (January 1992), LR 24:342 (February 1998), LR 25:2410 (December 1999), LR 28:2552 (December 2002), LR 29:2847 (December 2003), amended LR 31:

Family Impact Statement

In accordance with the Administrative Procedures Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement.

Amendment to the current LAC 22:I:103 by the Department of Public Safety and Corrections, Corrections Services, will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed rule rescission.

Interested persons may submit their comments in writing to Melinda L. Long, Attorney for Secretary Richard L. Stalder, Louisiana Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804, until 4:30 p.m. on June 27, 2005.

Richard L. Stalder
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Death Penalty

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

There are no estimated costs or savings to state or local governmental units.

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

There is no estimated effect on revenue collections of state or local governmental units.

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

B.E. "Trey" Boudreaux, III	Robert E. Hosse
Undersecretary	General Government Section Director
0505#051	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Office of Alcohol and Tobacco Control

Alcoholic Beverage Permits Prohibited Acts By Retailer;
Tobacco Permits Age Verification Requirements
(LAC 55:VII.201 and 3115)

Under the authority of R.S. 47:874 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., The Department of Revenue, Office of Alcohol and Tobacco Control, proposes to adopt LAC 55:VII.201 and 3115 pertaining to purchases of alcoholic beverages, tobacco, and tobacco products through unattended self-checkout counters.

Louisiana Administrative Code 55:VII.201 and 3115, entitled "Prohibited Acts By Retailer" and "Age Verification Requirements," respectively, provides that a clerk must verify the age of persons attempting to purchase alcoholic beverages, tobacco, and tobacco products through unattended self-checkout counters prior to that person's approach of the counter.

Title 55
PUBLIC SAFETY
Part VII. Alcohol And Tobacco Control
Subpart 1. Beer And Liquor
Chapter 2. Alcoholic Beverage Permits
§201. Prohibited Acts By Retailer

A. No retailer may sell or deliver beer, spirits, wine or any other alcoholic beverage, whether high or low alcoholic content, in a retail establishment to any person through any unattended or self-service checkout counter or mechanical device unless the purchaser submits to a clerk a valid driver's license, selective service card, or other lawful identification which on its face establishes the age of the person as 21 years or older and there is no reason to doubt the authenticity and correctness of the identification prior to approaching the self-checkout counter.

B. Violation of this Section by a retail dealer's agent, associate, employee, representative, or servant will be considered the retail dealer's act for purposes of suspension or revocation of a permit.

C. Violation of this Section subjects the retail dealer to penalties provided in R.S. 26:90, including but not limited to suspension or revocation of his permit and penalty provisions in R.S. 26:171.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:90.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office Alcohol and Tobacco Control LR 31:

Subpart 2. Tobacco
Chapter 31. Tobacco Permits
§3115. Age Verification Requirements

A. Before a seller mails, ships, or otherwise delivers cigarettes cigars, pipe tobacco, chewing tobacco, smokeless tobacco, or any other tobacco product of any kind in connection with a sale, the seller must verify the consumer's age through electronic or written communication.

B. Persons accepting purchase orders for delivery sales may request that prospective consumers provide their e-mail addresses.

C. No retailer may sell or deliver cigarettes, cigars, pipe tobacco, chewing tobacco, smokeless tobacco, or any other tobacco product of any kind in a retail establishment to any person through any unattended or self-service checkout counter or mechanical device unless the customer submits to a clerk a valid driver's license, selective service card, or other lawful identification that on its face establishes the age of the person as 18 years or older and there is no reason to doubt the authenticity and correctness of the identification prior to approaching the self-checkout counter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:833.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office Alcohol and Tobacco Control, LR 31:

Family Impact Statement

As required by Act 1183 of the Regular Session of the Louisiana Legislature, the following Family Impact Statement is submitted for publishing with the notice of intent in the *Louisiana Register*. A copy of this statement will also be provided to the legislative oversight committees.

1. The Effect on the Stability of the Family. Adoption of this proposed Rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children: Adoption of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Adoption of this proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Budget. Adoption of this proposed Rule will have no effect on family earnings and budget.

5. The Effect on Behavior and Personal Responsibility of Children. Adoption of this proposed Rule will have no effect on behavior and responsibility of children.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule: Adoption of this proposed Rule will have no effect on the

ability of the family or local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Murphy J. Painter, Commissioner, Office of Alcohol and Tobacco Control, Department of Revenue, 8549 United Plaza, Suite 220, Baton Rouge, LA 70809 or by fax to (225) 925.3975. All comments must be submitted by 4:30 p.m., Monday, June 27, 2005. A public hearing will be held on Tuesday, July 5, 2005, at 10:00 a.m. in the Office of Alcohol and Tobacco Hearing Room at 8549 United Plaza Boulevard, 2nd Floor, Baton Rouge, LA 70809.

Murphy J. Painter
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Alcoholic Beverage PermitsCProhibited Acts By Retailer; Tobacco PermitsCAge Verification Requirements

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

Adoption of this proposed Rule 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)

Adoption of this 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)

Adoption of this proposed Rule will have no effect on the costs and/or economic benefits to persons licensed to operate alcoholic beverage.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Adoption of this proposed Rule will ensure that the human element remains part of the decision-making process in regard to whether a particular party is of legal age to purchase and consume alcoholic beverages. Maintaining the human element will help preserve jobs that might otherwise be lost to electronic systems.

Murphy J. Painter	Robert E. Hosse
Commissioner	General Government Section Director
0505#067	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Office of Alcohol and Tobacco Control

Prohibited Acts (LAC 55:VII.305)

Under the authority of R.S. 26:793 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., The Department of Revenue, Office of Alcohol and Tobacco Control, proposes to amend LAC 55:VII.305 pertaining to certain acts which are prohibited from taking place on the premises of a licensed alcoholic beverage outlet.

Louisiana Administrative Code 55:VII.305 prohibits certain improper forms of entertainment from being displayed or conducted on the licensed premises of an alcoholic beverage outlet in Louisiana. This proposed amendment prohibits certain improper entertainment, namely gambling games, from being conducted on a licensed premises.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control
Subpart 1. Beer and Liquor
Chapter 3. Alcoholic Beverages
§305. Regulation IIICProhibited Acts

A. - B. ...

* * *

C. Contest and Game Promotions. Except as otherwise provided by law, contest and game promotions are allowed in accordance with the following restrictions.

1. No manufacturer, wholesaler, or retailer may allow, encourage, or otherwise entice any patron to risk the loss of anything of value or require any purchase payment or proof of purchase as a condition of entering or participating in any contest or game promotion or receiving any prize. Each patron allowed, encouraged, enticed, or required to make any purchase as a condition of entering any contest or game prohibited by this Subsection will constitute a separate violation.

2. No manufacturer, wholesaler, or retailer may collect an entry fee or cover charge as a condition of entering or participating in any contest or game promotion or receiving any prize. Each patron from whom an entry fee or cover charge is collected in violation of this Subsection will constitute a separate violation.

3. No manufacturer, wholesaler, or retailer may collect, hold, redistribute, possess or otherwise handle any prize money on behalf of players in any contest or game. Each patron for or from whom any such prize money is collected, held, or otherwise handled will constitute a separate violation of this Subsection.

4. No manufacturer, wholesaler, or retailer may encourage or otherwise entice any patron to participate in poker, blackjack, craps, or any other gambling game conducted on the licensed premises. Encouragement and enticement includes, but is not limited to, advertising in any form, including broadcast, print, indoor or outdoor signage, and word-of-mouth advertising. Advertising in any form will constitute prima facie evidence of a violation of this Subsection. Each patron responding to any such encouragement or enticement will constitute a separate violation of this Subsection.

5. No manufacturer, wholesaler, or retailer may allow any patron or other third party to conduct, manage, direct, or otherwise organize games, tournaments, or leagues involving multiple tables on their licensed premises. Each patron or other third party conducting, managing, directing, or otherwise organizing such games will constitute a separate violation of this Subsection. Each patron participating in games, tournaments, or leagues played on multiple tables will constitute a separate violation of this Subsection.

6. No manufacturer, wholesaler, or retailer may maintain or furnish any gambling paraphernalia to any patron for purposes of engaging in a contest prohibited by this Subsection. Gambling paraphernalia includes, but is not limited to, playing cards, poker chips, tokens, markers, buttons, card tables, dice, seating cards, and containers or

other means of storage of wagers for safekeeping during any prohibited game. Pool or billiard tables, cues, chalk, racks, and balls; darts, dart boards, and score boards; bowling balls and shoes are not subject to provisions of this Subsection.

7. All prizes awarded must be furnished by the retailer hosting, or the sponsor of, any such contest or game promotion. Any and all prizes awarded in violation of this Subsection will constitute a separate violation.

8. Athletic competitions and games, including but not limited to pool or billiards, darts, golf, bowling, and softball, are not subject to provisions of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:32 and 793.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of Alcoholic Beverage Control, 1968, amended in 1973, filed at the Office of the State Register, 1974, amended LR 31:

Family Impact Statement

As required by Act 1183 of the Regular Session of the Louisiana Legislature, the following Family Impact Statement is submitted for publishing with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to the legislative oversight committees.

1. The Effect on the Stability of the Family. Adoption of this proposed amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children: Adoption of this proposed amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Adoption of this proposed amendment will have no effect on the functioning of the family.

4. The effect on Family Earnings and Budget. Adoption of this proposed amendment will have no effect on family earnings and budget.

5. The Effect on Behavior and Personal Responsibility of Children. Adoption of this proposed amendment will have no effect on behavior and responsibility of children.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. Adoption of this proposed amendment will have no effect on the ability of the family or local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Murphy J. Painter, Commissioner, Office of Alcohol and Tobacco Control, Department of Revenue, 8549 United Plaza, Suite 220, Baton Rouge, LA 70809 or by fax to (225) 925.3975. All comments must be submitted by 4:30 p.m., Thursday, June 23, 2005. A public hearing will be held on Friday, June 24, 2005, at 10:00 a.m.. in the Office of Alcohol and Tobacco Hearing Room at 8549 United Plaza Boulevard, 2nd Floor, Baton Rouge, LA 70809.

Murphy J. Painter
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Prohibited Acts

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

Adoption 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)

Adoption of this 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)

Adoption of this proposed amendment will have no effect on the costs and/or economic benefits to persons licensed to operate alcoholic beverage outlets who are not currently conducting contest and/or game promotions prohibited therein. Licensed persons currently conducting contest and/or game promotions prohibited by this proposed Rule will see no increased costs as a result of its adoption.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Adoption of this proposed amendment will ensure a level playing field on which all licensed alcoholic beverage outlets (ABO) compete. Leveling of this playing field will encourage competition by removing an unfair advantage currently held by ABOs conducting contests and games prohibited by this proposed amendment. The legality and/or criminality of contest and game promotions prohibited by this proposed amendment is questionable. ABOs conducting these contest and game promotions are doing so at the risk of losing their licenses and personal freedom in hopes of drawing patrons away from other ABOs, which elect not to take such a risk. In addition to possible criminal and administrative violations, ABOs conducting these promotions expose themselves to civil abatement actions that may result in the closing of their licensed premises for up to five years. ABOs must decide between losing patrons and engaging in a practice that jeopardizes their business, alcoholic beverage license, and personal freedom. Adoption of this proposed amendment will have minimal, if any, effect on employment.

Murphy J. Painter	H. Gordon Monk
Commissioner	Acting Legislative Fiscal Officer
0505#068	Legislative Fiscal Office

NOTICE OF INTENT

Office of Transportation and Development
Office of Highways/Engineering

"RV Friendly" Designations to Specific Services (LOGO) Signs (LAC 70.III:115)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et. seq., notice is hereby given that the Department of Transportation and Development intends to amend Subchapter A of Chapter 1 of Part III of Title 70 entitled "Regulations for Control of Outdoor Advertising", in accordance with R.S. 48:274.1(B)(2).

Title 70
TRANSPORTATION
Part III. Outdoor Advertising
Chapter 1. Outdoor Advertising
Subchapter A. Outdoor Advertising Signs
§115. "RV Friendly" Program

A. Purpose. The purpose of this Rule is to establish policies for the installation of "RV Friendly" symbols on qualifying Specific Services (LOGO) Signs.

B. Definitions

"RV Friendly" those businesses that can accommodate large recreational vehicles by meeting specific facility and access criteria.

C. Criteria

1. Roadway and Parking Surfaces

a. Roadways and parking lots must be all-weather hard surface. Road surface types can include concrete, asphalt, and aggregate such as gravel, limestone, and rap material.

b. Roadway shall be free of ruts and potholes.

c. Lane widths shall be a minimum of 11 feet.

d. A minimum turning radius of 50 feet shall be used on all connections and turns.

2. Parking Spaces

a. Facilities must have two or more spaces that are 12 feet wide and 65 feet long.

b. A turning radius of 50 feet is required at both ends to enter and exit the spaces.

c. All designated parking spaces must be clearly marked with the "RV Friendly" logo.

d. Gas stations without restaurants are exempt from this requirement.

3. Vertical Clearance

a. Facility with canopies or roof overhangs must have 15-foot minimum clearance.

b. Tree limbs and power lines must have a 15-foot minimum clearance.

4. Fueling Stations

a. Facilities selling diesel fuel to RVs must have at least one pump with non-commercial nozzle.

b. Fueling stations must have a turning radius of 50 feet at both ends to enter and exit the fuel islands.

c. All designated fuel pumps must be clearly marked with the "RV Friendly" logo.

5. Campgrounds

a. Campgrounds must have two or more camping spaces that are 18 feet wide and 50 feet long.

D. "RV Friendly" Symbol

1. Description:

a. The "RV Friendly" marker shall be a bright yellow circle with a crescent smile under the letters "RV." The yellow background sheeting will be AASHTO Type III Sign Sheeting (High Intensity). The letters and crescent smile shall be approved non-reflective black.

b. If necessary for mounting the sheeting may be attached to an aluminum circle.

2. Dimensions:

a. For mainline installations, the symbol shall have a 12-inch diameter yellow circle with 5 1/2-inch black block letters.

b. For ramp and trailblazer installations the symbol shall be a 6-inch diameter yellow circle with 2 3/4-inch black block letters and a crescent smile.

3. Attachment and Placement

a. The symbol shall be located within the business logo panel. On new signs it shall be designed and fabricated as part of the logo panel.

b. On existing logo panels, the symbol sheeting may be directly applied to the sheeting of the logo panel or it may be attached to an aluminum circle that can then be attached to the logo panel with approved fasteners.

c. On existing logo panels, the placement location of the symbol will be determined by the Department. If placement of the symbol is not possible because of a lack of space between existing legends, the business will not be allowed to participate in the program until new logo panels that are designed and fabricated with the symbol are supplied to the Department.

E. Administration

1. Application

a. Facilities that already participate in the LOGO program will submit an "RV Friendly" application form to the Department.

b. Facilities that do not belong to the LOGO program will submit a LOGO application as well as an "RV Friendly" application.

c. The facility may be inspected by the Department to assure that the facility meets the "RV Friendly" qualifying criteria.

d. Facilities that have qualified for "RV Friendly" signs, but at a later date no longer meet the criteria listed in Paragraph C above will be removed from the "RV Friendly" program and will be required to cover the "RV Friendly" symbols with their business signs.

2. Fees and Special Requirements

a. For a business to participate in the "RV Friendly" program, all of its logo panels must be fabricated or modified to include the "RV Friendly" symbol.

b. No additional fees will be charged to new facilities that include the "RV Friendly" symbol in their business logo panels.

c. Facilities that already participate in the Logo program will be charged a one-time processing, material, and installation fee of $25.00 for each "RV Friendly" symbol.

d. Facilities that have qualified for "RV Friendly" signs, but at a later date no longer meet the criteria listed in Paragraph C above will be removed from the "RV Friendly" program, must have their business signs cover the "RV Friendly" symbols and shall be charged $25 for each symbol that must be covered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:274.1(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 31:

Family Impact Statement

The proposed adoption of this Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family.

2. The implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed Rule will have no known or foreseeable effect on family earnings and family budget.

5. The implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this Notice of Intent. Such comments should be submitted to Sherryl J. Tucker, Senior Attorney, P. O. Box 94245, Baton Rouge, LA 70804, Telephone (225) 237-1359.

J. Michael Bridges, P.E.
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: "RV Friendly" Designations to Specific Services (LOGO) Signs

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

This rule-making implements the provisions of R.S. 48:274.1(B)(2) which was enacted in the 2004 Regular Session of the Louisiana Legislature. It requires the department to accommodate a marker or decal for establishments which are "Recreational Vehicle or RV Friendly" in the various designations available in the Specific Services (Logo) Signing Program. Such action will require the department to review applications and install certain decals on the established sign boards at a cost of approximately $20,000 to be expended in Fiscal Year 2005/2006. The department plans to charge a fee of $25 per installation. It is estimated that 200 existing permittees would apply for 4 installations each so that total implementation costs of approximately $20,000 would be covered by this fee. New permittees would be charged no additional fee for the "RV Friendly" decal because it would be fabricated with their new sign screens.

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

The cost to the department of implementing this program will be reimbursed by the logo sign permittee who desires to add the "RV Friendly" decal to his current logo screen. New Permittees would be assessed no fee because the decal would be fabricated with the new sign screen. Anticipated revenue from these fees should be approximately $20,000. This figure is based upon 200 current pemittees paying a fee of $25 per sign and most permittees have 4 signs.

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

There will be a $25 fee per decal (4 are usually installed per permittee) which will be paid by the businesses which currently advertise on LOGO sign boards and decide to advertise their "RV Friendly" status on the Specific Services (LOGO) Sign Boards. This cost should be offset by the increased business which should be experienced due to this effective and economical advertising device. (New permittees will not be charged.)

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Businesses which have made the investment in larger parking spaces, entrances and exits and overhang clearances in order to accommodate recreational vehicles should have increased business.

J. Michael Bridges, P.E.
Undersecretary
0505#070

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Alligator Regulations (LAC 76:V.701)

The Wildlife and Fisheries Commission does hereby advertise its intent to eliminate the suspension of $1.00 of the $4.00 alligator hide tag fee.

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 7. Alligators
§701. Alligator Regulations

A. The Department of Wildlife and Fisheries does hereby establish regulations governing the harvest of wild populations of alligators and alligator eggs, raising and propagation of farmed alligators, tanning of skins and regulations governing the selling of hides, alligator parts and farm raised alligators. The administrative responsibility for these alligator programs shall rest with the Department Secretary; the Assistant Secretary, Office of Wildlife; and the Fur and Refuge Division.

1. - 3. …

4. Licenses, Permits and Fees

a. The licenses and fees required for activities authorized by these regulations are as prescribed under provisions of Title 56, or as prescribed in these regulations, and are:

i. - x. …

xi. $4 for each alligator hide tag.

4.a.xii. - 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:

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 comments relative to the proposed Rule to Philip Bowman, Fur & Refuge Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, July 7, 2005.

Wayne J. Sagrera
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Alligator Regulations

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

There will be no state or local governmental implementation costs or savings associated with this proposed rule change.

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

Total revenue collections of the state are estimated to increase from the current 2004-2005 Fiscal Year by $189,750 in Fiscal Year 2005-2006 and by $253,000 each subsequent fiscal year. Revenue collections of local governmental units will not be affected.

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

Any licensed individual that can legally ship alligator skins out-of-state, tan alligator hides in state or use an alligator hide for taxidermy purposes will be directly affected.

The proposed rule change will eliminate the suspension of $1 of the $4 alligator hide tag fee which has been in effect since September 2004. Currently, licensed individuals pay a $3 alligator hide tag fee. Thus, licensed individuals will incur an additional cost of $1 per alligator hide above the $3 tag fee currently being charged. No workload adjustments or additional paperwork will be required.

V. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Based on the current strong price and demand for alligator hides the proposed rule change is expected to have little impact on competition and employment within the alligator hide industry.

Janice A. Lansing	Robert E. Hosse
Undersecretary	General Government Section Director
0505#065	Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Bird Dog Training Areas (LAC 76:V.321)

The Department of Wildlife and Fisheries, Wildlife and Fisheries Commission does hereby advertise its intent to create and establish rules for bird dog training areas on wildlife management areas.

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
§321. Bird Dog Training Areas

A. Purpose. Bird dog training areas (BDTA) are established to afford users of Wildlife Management Areas (WMA) an opportunity to train pointing dogs and flushing retrievers or spaniels with live released birds. The BDTA is not intended to serve as a hunting preserve. The following regulations are adopted to ensure that users of the BDTA utilize the area as intended, and to minimize the potential for negative impacts on wildlife.

B. Establishment and Posting. BDTAs may be established on any WMA. Portions of the WMA without significant wild quail populations, and where wildlife will not be negatively impacted, are suitable for establishment of BDTAs. BDTAs must be marked with signs and/or paint clearly indicating the boundaries.

C. Permits and Licenses. Each party using the BDTA for dog training must include at least one permittee, and the permittee must have a valid permit in his/her possession while engaged in dog training on the BDTA. For purposes of this Rule, a person or party will be considered to be engaged in dog training if they possess or release live bobwhite quail or pigeons at any time, or if they are present on the BDTA with pointing dogs, spaniels or retrievers during the time quail, woodcock, or waterfowl season is closed on the WMA. Each BDTA requires a unique permit and permits are valid only on the specific BDTA for which the permit is issued. Permits will not be issued to applicants with Class 2 or higher wildlife violation convictions or guilty pleas within 3 years of the date of application. All users of the BDTA must comply with the WMA self-clearing permit requirements. Any person who takes or attempts to take released or wild bobwhite quail or pigeons on the BDTA must comply with applicable hunting license and WMA permit requirements.

D. Dogs. Only recognizable breeds of pointing dogs, spaniels, and retrievers may be trained on the BDTA. All dogs must wear a collar or tag imprinted with the name and

phone number of the owner or trainer. Trainers shall not knowingly allow or encourage their dogs to pursue rabbits, raccoons, or other wildlife.

E. Birds. Only bobwhite quail or pigeons may be released for dog training activities on the BDTA. Bobwhite quail and pigeons may only be released within the boundaries of the BDTA. Bobwhite quail and pigeons may be shot in conjunction with dog training activities. When WMA hunting seasons are closed, only bobwhite quail and pigeons may be taken and possessed. When the WMA quail or woodcock hunting season is closed, bobwhite quail and pigeons may only be shot within the boundaries of the BDTA. No more than 6 quail per day may be released, taken, or possessed per permittee. For example, a party consisting of 1 permit holder and 2 helpers may not possess, release, or take more than 6 quail per day. Wild quail may be taken on the BDTA at any time the BDTA is open to dog training and must be included in the 6-bird limit. There is no limit on the number of pigeons that may be taken, released, or possessed. All quail must be marked with a Department provided leg band prior to entering the WMA, and if the bird is shot or recaptured, the band must remain on the bird until arrival at the trainer s domicile. Wild quail taken on the BDTA must immediately be marked with a LDWF issued band. Pigeons are not required to be banded. Bands will be provided by LDWF when the permit is issued. Persons in possession of live bobwhite quail must have a valid game breeders license or bill of sale from a licensed game breeder.

F. Firearms. When the WMA hunting seasons are closed, only shotguns with shells containing shot not larger than lead size 8 or steel size 7 are permitted on the BDTA. Firearms must be encased or broken down upon entering and leaving the BDTA when the WMA hunting seasons are closed. Pistols capable of firing only blanks are also permitted.

G. Seasons. Unless specified, BDTAs are open to dog training all year, except all BDTAs are closed to bird dog training activities during the applicable WMA turkey season and modern firearm either-sex deer season. Additional closure periods may be adopted for some BDTAs. Such closure periods will be listed in the annual hunting regulations pamphlet for the WMA on which the BDTA is located.

H. Hunter Orange Requirements. Persons engaged in dog training on BDTAs during WMA hunting seasons must comply with WMA hunter orange requirements.

I. Wildlife Management Area Regulations. Except as provided herein, all rules and hunting seasons applicable to the WMA on which the BDTA is located are also applicable to the BDTA. Additional regulations may be adopted for some BDTAs and will be listed in the annual hunting regulations pamphlet for the WMA on which the BDTA is located.

J. Violation of Rules. A person who is convicted or enters a guilty plea for violation of any provision of this Rule shall be guilty of a Class 2 violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:109(B), R.S. 56:115, and R.S. 56:141(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:

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 forth out at R.S. 49:972(B).

Interested persons may submit written comments of the proposed Rule to Dave Moreland, Administrator, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000 no later than 4:30 p.m., Thursday, July 7, 2005.

Wayne J. Sagrera
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bird Dog Training Areas

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

Implementation of this proposed rule wll be carried out using existing staff and funding levels. A slight increase in workload and paperwork associated with the establishment and marking of boundaries, issuing permits and administering the program is anticipated. In addition small costs for signage and bands for marking released birds will be incurred.

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)

Bird dog trainers will be affected by the proposed rule. They will be allowed to train their bird dogs using live birds and firearms during most of the year in designated Bird Dog Training Areas within Wildlife Management Areas. Trainers will be required to obtain a permit for the specific bird Training Area they want to use. Permits will be issued to applicants at no charge. Persons supplying live birds to dog trainers may experience a small increase in revenues if demand for live quail and pigeons increases.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated.

Janice A. Lansing	Robert E. Hosse
Undersecretary	General Government Section Director
0505#066	Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Deer and Elk Importation (LAC 76:V.117)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the rules governing white-tailed deer importation.

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 1. Wild Quadrupeds
§117. Deer and Elk Importation

A. Definitions

Elk or Red Deer any animal of the species Cervus elaphus.

Mule Deer or Black-Tailed Deer any animal of the species Odocoileus hemionus.

White-Tailed Deer any animal of the species Odocoileus virginianus.

B. No person shall import, transport or cause to be imported or transported live white-tailed deer, mule deer, or black-tailed deer (hereinafter "deer"), into or through the state of Louisiana. No person shall import, transport or cause to be imported or transported, live elk or red deer (hereinafter "elk") into or through Louisiana in violation of any Imposition of Quarantine by the Louisiana Livestock Sanitary Board. Any person transporting deer or elk between licensed facilities within the state must notify the Department of Wildlife and Fisheries and provide information as required by the department prior to departure from the source facility and again upon arrival at the destination facility. A transport identification number will be issued upon providing the required information prior to departure. Transport of deer or elk between licensed facilities without a valid transport identification number is prohibited. Notification must be made to the Enforcement Division at (800) 442-2511. All deer or elk imported or transported into or through this state in violation of the provisions of this ban shall be seized and disposed of in accordance with Wildlife and Fisheries Commission and Department of Wildlife and Fisheries rules and regulations.

C. No person shall receive or possess deer or elk imported or transported in violation of this Rule. Any person accepting delivery or taking possession of deer or elk from another person has a duty to review and maintain bills of sale, bills of lading, invoices, and all other documents which indicate the source of the deer or elk.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S. 56:6(10), (13) and (15), R.S. 56:20, R.S. 56:112, R.S. 56:116.1 and R.S. 56:171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:1140 (June 1998), repromulgated LR 24:1325 (July 1998), amended LR 28:2206 (October 2002), LR 31:

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 comments relative to the proposed Rule to David Moreland, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, July 7, 2005.

Wayne J. Sagrera
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Deer and Elk Importation

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

The proposed rule will have no implementation costs or savings to state or local governmental units.

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

No effect on revenue collections of state or local governmental units is anticipated.

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

Although deer importation has been prohibited since 2002, some deer farmers and supplemental hunting preserve operators may experience undetermined economic costs as a result of this rule. As a group these operations are not highly dependent on imported deer. Deer produced within Louisiana should be sufficient to meet the needs of deer farmers and supplemental hunting preserves. Persons dependent upon recreation associated with wild deer and wild deer hunting may benefit if the rule is effective in preventing a chronic wasting disease outbreak in Louisiana. It is estimated that deer hunting in Louisiana produced an economic impact of $321,000,000 in 2001 and provided over 3,350 jobs. Many landowners receive income from land leased for deer hunting. Recreation has been a driving force in maintaining rural and timberland real estate values during the last several years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated.

Janice A. Lansing	Robert E. Hosse
Undersecretary	General Government Section Director
0505#064	Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry
Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given July 25-29, 2005, 9:30 a.m. at Louisiana Technical College, Lomax Hall, Ruston, LA. The deadline for sending in application and fee is June 10, 2005. No applications will be accepted after June 10, 2005.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to June 10, 2005. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0505#030

POTPOURRI

Office of the Governor
Crime Victims Reparations Board

Public Hearing Compensation Policies

Under the authority of R.S. 46:1807(C)(1), the chairman of the Crime Victims Reparations Board gives notice to consider the revision for the maximum award for reimbursement of funeral expenses which was published on page 568 of the February 20, 2005, *Louisiana Register* from $4,000 to $4,500.

A public hearing will be held on Wednesday, June 8, 2005, at 9:30 a.m. in the Wooddale Towers Building, Room 701, 1885 Wooddale Boulevard, Baton Rouge, LA pursuant to the provisions of R.S. 49:968. Interested persons are invited to attend and submit oral comments on the proposed amendment. Free parking is available. Any individual requiring special accommodations due to a disability should notify the office prior to June 8, 2005. Questions may be directed to (225) 925-4437.

Lamarr Davis
Chairman

0505#074

POTPOURRI

Department of Health and Hospitals
Office of Public Health
Maternal and Child Health Section

Maternal and Child Health Block Grant Application

The Department of Health and Hospitals (DHH) intends to apply for Maternal and Child (MCH) Block Grant federal funding for FY 2005-2006 in accordance with Public Law 97-35 and the Omnibus Budget Reconciliation Act of 1981. The Office of Public Health, Maternal and Child Health Section, is responsible for program administration of the grant.

The Block Grant Application describes in detail the goals and planned activities of the State Maternal and Child Health Program for the next year. Program priorities are based on the results of a statewide needs assessment conducted in 2005, which is updated annually based on relevant data collection.

Interested persons may request copies of the application from:

State of Louisiana
DHH - Office of Public Health
Maternal and Child Health Section, Room 612
P.O. Box 60630
New Orleans, LA 70160

or view a summary of the application at: www.oph.dhh.state.la.us/maternalchild/

Additional information may be gathered by contacting Elizabeth Black at (504) 568-5073.

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

0505#002

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
Curt Weaver et al..	Cameron Meadows	L	Cameron Meadows	60	076389
Curt Weaver et al.	Cameron Meadows	L	Cameron Meadows	60-D	077757
Curt Weaver et al.	East Cameron Meadows	L	Cameron Meadows	69	110139 (30)
Brooks Hall Oil Corp.	South Tigre Lagoon	L	Vermilion Bay Land Co.	1	140853 (03)
Transco Exploration Co.	Lake Hatch	L	Pelto Oil Co.	1	158787 (29)
Iberia Petroleum Corp.	Anse La Butte	L	J. J. Martin	A-1	024768
Hunter Oil & Gas, LLC	La Pice	L	Hawthorne Fmly. Class Trust SWD	1	210172
Hunter Oil & Gas, LLC	La Pice	L	Hawthorne Heirs	1	213474 (30)
Hunter Oil & Gas, LLC	La Pice	L	D RC SUA; Hawthorne Heirs	2	214142 (30)
Hunter Oil & Gas, LLC	Lake Rosemound	L	Mescal Brown et al.	1	216614 (30)
R. Heber Smith	Caddo Pine Island	S	Muslow	2-W	039473
Diversa, Inc.	Wildcat	L	F. W. Stovall	1	098341
British Am., Van Dyke, & Hamon	Wildcat	L	Grand Prairie Levee District	1	106350
MACPET-Stuarco-Petit	Live Oak	L	Stovall	1	137059
Krescent Energy Co., LLC	Lake Mongoulois	L	VUA;SL 303 LMU	007	033216
Krescent Energy Co., LLC	Lake Mongoulois	L	VUA;SL 303 LMU	009	035712
Krescent Energy Co., LLC	Lake Mongoulois	L	LM ST 7 RH SU;SL 303 LMU	11	036277
Krescent Energy Co., LLC	Lake Mongoulois	L	VUA;SL 303 LMU	12	037178
Krescent Energy Co., LLC	Lake Mongoulois	L	VUA;SL 303 LMU	13	37589
Krescent Energy Co., LLC	Lake Mongoulois	L	LM ST 7 SU;LK MONG U	15	39799
Krescent Energy Co., LLC	Lake Mongoulois	L	VUA;SL 303 LMU	16	40853
Krescent Energy Co., LLC	Lake Mongoulois	L	VUA;SL 303 LMU	17	41143
Krescent Energy Co., LLC	Lake Mongoulois	L	VUA;SL 303 LMU	18	41681
Krescent Energy Co., LLC	Lake Mongoulois	L	LM ST 7 SU;LK MONG U	19	42426
Krescent Energy Co., LLC	Lake Mongoulois	L	VUA;SL 303 LMU	21	43984
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James H. Welsh
Commissioner

0505#071

POTPOURRI

Department of Transportation and Development
Sabine River Compact Administration

Meeting Notice

The spring meeting of the Sabine River Compact Administration will be held at the Church Street Inn, Natchitoches, Louisiana, June 3, 2005 at 8:30 a.m.

The purpose of the meeting will be to conduct business as programmed in Article IV of the By-Laws of the Sabine River Compact Administration.

The fall meeting will be held at a site in Louisiana to be designated at the above described meeting.

Contact person concerning this meeting is:

Kellie Ferguson, Secretary
Sabine River Compact Administration
15091 Texas Highway
Many, LA 71449
(318) 256-4112

Kellie Ferguson
Secretary

0505#019

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