

I. EXECUTIVE ORDERS

KBB 06-07 Urban Search and Rescue Commission—Amends Executive Order No. KBB 05-05 ..... 351

KBB 06-08 Louisiana Rebirth Panel..... 351

KBB 06-09 Gulf Opportunity Zone Bond Allocation Procedures..... 352

KBB 06-10 Emergency Suspension of Certain Workers' Compensation Laws—Extends Executive Order  
No. KBB 05-52..... 356

KBB 06-11 Louisiana Stadium and Exposition District Authorization for Series 2006 Bonds ..... 356

II. EMERGENCY RULES

Education

Tuition Trust Authority, Office of Student Financial Assistance—START Savings Program—Interest Rate  
(LAC 28:VI.315)..... 358

Environmental Quality

Office of the Secretary, Legal Affairs Division—Expedited Penalty Agreement  
(LAC 33:I.801, 803, 805, and 807)(OS054E8)..... 358

Extension of Compliance Deadlines for CAFO Permits (LAC 33:IX.2501, 2505, 2703, and 4903)  
(WQ066E)..... 364

Financial Assurance Correction (LAC 33:XV.399)(RP042E) ..... 366

Laboratory Accreditation Exemption for Analyses of Target Volatile Organic Compounds  
(LAC 33:I.4719)(OS064E3) ..... 367

Governor

Board of Examiners of Certified Shorthand Reporters—Emergency Extension of Suspension Date for  
Renewal of Certificates (LAC 46:XXI.501) ..... 368

Health and Hospitals

Office of the Secretary, Bureau of Health Services Financing—Adult Dentures Restoration of  
Reimbursement Reduction (LAC 50:XXV.701) ..... 369

Durable Medical Equipment—Restoration of Reimbursement Reduction (LAC 50:XVII.133)..... 369

Early and Periodic Screening, Diagnosis and Treatment Program—Dental Services Restoration of  
Reimbursement Reduction (LAC 50:XV.6903)..... 370

Early and Periodic Screening, Diagnosis and Treatment Program—Durable Medical Equipment  
Restoration of Reimbursement Reduction (LAC 50:XV.8501 and 8703)..... 370

Emergency Medical Transportation Program—Emergency Ambulance Services—Restoration  
of Reimbursement Reduction ..... 371

Emergency Medical Transportation Program—Non-Emergency Ambulance Services—Restoration  
of Reimbursement Reduction ..... 372

Expanded Dental Services for Pregnant Women—Restoration of Reimbursement Reduction  
(LAC 50:XV.16107)..... 372

Hemodialysis Centers—Restoration of Reimbursement Reduction (LAC 50:XI.6901)..... 373

Home Health Services—Restoration of Reimbursement Reduction (LAC 50:XIX.707) ..... 373

Hospice—Restoration of Reimbursement Reduction (LAC 50:XV.4301) ..... 374

Inpatient Hospitals—Private Hospitals—Restoration of Reimbursement Reduction ..... 375

Inpatient Hospitals—Private Psychiatric Hospital—Restoration of Reimbursement Reduction..... 375

Intermediate Care Facilities for the Mentally Retarded—Private Facilities—Restoration of  
Reimbursement Reduction (LAC 50:VII.32903)..... 376

Laboratory and X-Ray—Restoration of Reimbursement Reduction (LAC 50:XIX.4329 and 4335) ..... 376

Louisiana Hurricane Relief Waiver—Uncompensated Care Costs Pool (LAC 50:XXII.Chapters 41-53)..... 377

Mental Health Rehabilitation Services—Restoration of Reimbursement Reduction (LAC 50:XV.901)..... 379

Outpatient Hospitals—Private Hospitals—Restoration of Reimbursement Reduction ..... 380

Private Nursing Facilities—Restoration of Reimbursement Reduction (LAC 50:VII.1305)..... 380

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Professional Services Program—Anesthesia Services—Restoration of Reimbursement Reduction .....	381
Professional Services Program—Physician Services—Restoration of Reimbursement Reduction .....	381
Professional Services Program—Physician Services—Supplemental Payment .....	382
Targeted Case Management—Restoration of Reimbursement Reduction (LAC 50:XV.10701) .....	383
<b>Social Services</b>	
Office of Family Support—Food Stamp/FITAP/KCSP—Interest Income—Exclusion and Student Status Changes (LAC 67:III.1229, 1935, 1937, 1979, 1980, and 5329).....	383
<b>Wildlife and Fisheries</b>	
Wildlife and Fisheries Commission—Oyster Season Closure—Bay Gardene Public Oyster Seed Reservation .....	385
<b>III. RULES</b>	
<b>Education</b>	
Board of Regents—Insurance; Surety Bonds (LAC 28:IX.Chapters 1-5).....	386
Board of Elementary and Secondary Education—Bulletin 118—Statewide Assessment Standards and Practices—Administrative Error, Cell Phones and Other Electronic Devices, and GEE 21 Administration Rules (LAC 28:CXI.312, 316 and 1351).....	390
Bulletin 1943—Policies and Procedures for Louisiana Teacher Assistance and Assessment Standards for Certification (LAC 28:XXXVII.1901).....	391
Student Financial Assistance Commission, Office of Student Financial Assistance—Student Financial Assistance Bylaws—Committee Membership (LAC 28:V.109) .....	391
Tuition Trust Authority, Office of Student Financial Assistance—Tuition Trust Bylaws—Committee Membership (LAC 28:VII.109) .....	392
<b>Environmental Quality</b>	
Office of the Secretary, Legal Affairs Division—Underground Storage Tanks (LAC 33:XI.301, 509, and 1313)(UT011) .....	393
<b>Health and Hospitals</b>	
Board of Wholesale Drug Distributors—Wholesale Drug Distributors (LAC 46:XCI.Chapters 1-8).....	394
Office of the Secretary—Organ Procurement Agency Coordination (LAC 48:I.2901 and 2903) .....	403
Office of the Secretary, Bureau of Health Services Financing—CommunityCARE Program (LAC 50:I.2901, 2903, 2907, 2911).....	404
Early and Periodic Screening, Diagnosis and Treatment Program Extended and/or Multiple Daily Skilled Nursing (LAC 50:XV.7501) .....	406
Home Health—Extended Nursing Services (LAC 50:XIII.305).....	406
<b>Public Safety and Corrections</b>	
Corrections Services—Visitation—Adult Inmates (LAC 22:I.316).....	406
<b>Revenue</b>	
Policy Services Division—Computation of Net Allocable Income from Louisiana Sources (LAC 61:I.1130).....	409
Corporation Franchise Tax—Allocation of Taxable Capital (LAC 61:I.306) .....	415
Determination of Louisiana Apportionment Percent (LAC 61:I.1134) .....	421
Tax Commission—Ad Valorem Taxation (LAC 61:V.101, 103, 203, 205, 211, 301, 304, 309, 703, 705, 907, 1103, 1307, 1501, 1503, 2503, 3101, 3103, 3105, 3307, 3501, 3503, and 3507).....	425
<b>Social Services</b>	
Office of Family Support—Support Enforcement Services Program—Electronic Disbursement of Child Support (LAC 67:III.2518).....	442
<b>IV. NOTICES OF INTENT</b>	
<b>Education</b>	
Board of Elementary and Secondary Education—Bulletin 122—Trade and Industrial Education Curricula (LAC 28:CXXVII.Chapters 1-7).....	443
Bulletin 1934—Starting Points Preschool Regulations (LAC 28:XXI.Chapter 5) .....	463
<b>Environmental Quality</b>	
Office of the Secretary, Legal Affairs Division—Compatibility and Health and Safety Requirements (LAC 33:XV.102, 322, 421, 442, 703, 706, 723, 728, 736, 737, 741, 742, 743, 755, 757, 763, and 804)(RP041ft) .....	464
DMR Completion Requirement (LAC 33:IX.2701)(WQ065).....	468
Extension of Compliance Deadlines for CAFO Permits (LAC 33:IX.2501, 2505, 2703, and 4903) (WQ066ft) .....	469
Financial Assurance Correction (LAC 33:XV.399.Appendix A)(RP042ft) .....	470
RCRA XV Package (LAC 33:V.105, 109, 901, 905, 907, 909, 911, 921, 923, 1101, 1107, 1108, 1109, 1113, 1119, 1123, 1301, 1307, 1309, 1516, 1529, 2205, 2208, 2299, 3105, 4145, 4351, 4353, 4355, 4356, and 4901)(HW090ft) .....	471

<b>Governor</b>	
Commission on Law Enforcement and Administration of Criminal Justice—Peace Officer Training (LAC 22:III.4715 and 4723) .....	483
Division of Administration, Office of the Commissioner—Small Entrepreneurship (Hudson Initiative) Procurement (LAC 19:VIII.Chapters 11 and 13) .....	485
<b>Health and Hospitals</b>	
Board of Dentistry—Provisional Licensure for Dental Healthcare Providers (LAC 46:XXXIII.128) .....	489
Office of Public Health—Infectious Disease Epidemiology Program (LAC 51:II.Chapter 1).....	490
Office of the Secretary, Bureau of Health Services Financing—Nursing Facilities—Minimum Licensing Standards (LAC 48:I.9717, 9820, and 9911).....	494
<b>Natural Resources</b>	
Office of Mineral Resources—Dry Hole Credit Program (LAC 43:V.Chapter 4).....	496
<b>Social Services</b>	
Office of Family Support—TANF Initiatives—Temporary Emergency Disaster Assistance Program (TEDAP)(LAC 67:III.5583) .....	501
<b>Transportation and Development</b>	
Office of Weights and Standards—Oversize and Overweight Permit Regulations (LAC 73:I.723).....	503
<b>Treasury</b>	
State Employees' Retirement System—DROP Program—Interest (LAC 58:I.2715 and 4135).....	504
DROP Program—Time for Disbursement (LAC 58:I.2713) .....	505
Self-Directed Plan—Time to Transfer Funds (LAC 58:I.4111).....	505
<b>Wildlife and Fisheries</b>	
Wildlife and Fisheries Commission—Shrimping Closed Season, Vessel Monitoring System (LAC 76:VII.369).....	506
<b>V. POTPOURRI</b>	
<b>Agriculture and Forestry</b>	
Office of Agriculture and Environmental Sciences—Structural Pest Control Commission—Approved Termiticides and Manufacturers .....	509
<b>Environmental Quality</b>	
Office of the Secretary, Legal Affairs Division—Identification of BART Eligible Sources.....	509
Proposed Revisions to the Inspection/Maintenance (I/M) State Implementation Plan (SIP) for Baton Rouge.....	511
<b>Governor</b>	
Oil Spill Coordinator's Office—Final Damage Assessment and Restoration Plan/Environmental Assessment—Sonat Goins Oil Spill.....	511
<b>Natural Resources</b>	
Office of Conservation—Orphaned Oilfield Sites .....	512
Office of the Secretary, Fishermen's Gear Compensation Fund—Loran Coordinates .....	512
<b>Social Services</b>	
Office of Community Services—2006 Louisiana Social Services Block Grant.....	512
<b>Wildlife and Fisheries</b>	
Wildlife and Fisheries Commission—2006/07 Hunting Season Public Hearings Schedule .....	513
<b>VI. INDEX</b> .....	514

# Executive Orders

## EXECUTIVE ORDER KBB 06-07

Urban Search and Rescue Commission  
Amends Executive Order No. KBB 05-05

WHEREAS, Executive Order No. KBB 2005-5, issued on February 23, 2005, created the Urban Search and Rescue Commission (hereafter "Commission") designed to organize an urban search and rescue team, coordinate the team's training, and authorize the team's acquisition of necessary equipment;

WHEREAS, the Office of Homeland Security and Emergency Preparedness has designated the Department of Wildlife and Fisheries (hereafter "Department") as the state agency whose primary responsibility is search and rescue, in accordance with the state's emergency operations plan; and

WHEREAS, it is necessary to expand the membership of the Commission to provide for representation by the Department;

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 2005-5, issued on February 23, 2005, is amended as follows:

The Commission shall be composed of thirteen (13) members who, unless otherwise specified, shall be appointed by and serve at the pleasure of the governor. The membership of the Commission shall be selected as follows:

A. The superintendent of the Louisiana State Police, or the superintendent's designee;

B. The adjutant general of Louisiana, or the adjutant general's designee;

C. The secretary of the Department of Wildlife and Fisheries, or the secretary's designee;

D. One (1) representative of each of the nine (9) fire districts nominated by the Louisiana Fire Chiefs Association; and

E. One (1) representative of the Louisiana Emergency Preparedness Association.

SECTION 2: All other sections, subsections, and paragraphs of Executive Order No. KBB 2005-5, issued on February 23, 2005, 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 15th day of February, 2006.

Kathleen Babineaux Blanco  
Governor

ATTEST BY  
THE GOVERNOR  
Al Ater  
Secretary of State  
0603#074

## EXECUTIVE ORDER KBB 06-08

Louisiana Rebirth Panel

WHEREAS, the Office of the Lieutenant Governor and the Department of Culture, Recreation and Tourism have created an ambitious rebuilding plan, "Louisiana Rebirth: Restoring the Soul of America" (hereafter "Louisiana Rebirth");

WHEREAS, considerable state, federal, and private resources will be committed to this plan, it is essential we achieve the results specified in the plan and demonstrate the highest standards of accountability and ethical behavior;

WHEREAS, Louisiana Rebirth calls for the establishment of a third-party performance and financial audit function that will design and implement a system to safeguard the proper use of culture, recreation and tourism funds; and

WHEREAS, the lieutenant governor has requested the establishment and charter of this independent accountability review panel for Louisiana Rebirth;

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: The Louisiana Rebirth Accountability Panel (hereafter "Panel") is hereby established within the Department of Culture, Recreation and Tourism;

SECTION 2: The duties of the Panel in the area of culture, recreation and tourism shall include, but are not limited to, the following:

A. Facilitate the achievements of the four (4) results specified in the plan:

1. Rebuild Louisiana to worldwide preeminence as a top tourist destination;

2. Make Louisiana's cultural economy the engine of economic and social rebirth;

3. Build better lives and livelihoods for all of Louisiana's people; and

4. Make Louisiana's recovery the standard for high performance, accountability, and ethical behavior.

B. Develop a work plan for the Panel;

C. Review all sources of funds to implement Louisiana Rebirth, including but not limited to, federal, state, and local funds, and funds from the Louisiana Cultural Economy Foundation;

D. Regularly review and report the results achieved from the expenditure of culture, recreation, and tourism funds; and

E. Recommend changes in state legislation, procedures or practices to enhance the state as a top tourist destination.

SECTION 3: The Panel shall submit a written comprehensive report annually to the governor, the president of the Louisiana State Senate, the speaker of the Louisiana House of Representatives, and the public at-large on the issues set forth in Section 2 of this Order.

**EXECUTIVE ORDER KBB 06-09**

**Gulf Opportunity Zone Bond Allocation Procedures**

SECTION 4: The Panel shall be composed of a maximum of nine (9) members appointed by and serving at the pleasure of the governor, selected as follows:

A. One (1) representative with expertise in public accounting standards, exhibited by a relationship with the General Accounting Standards Board;

B. One (1) representative with broad expertise in administering performance systems and accounting standards associated with the Government Finance Officers Association;

C. One (1) current or former federal auditor;

D. One (1) representative of the Louisiana Recovery Authority;

E. One (1) private sector business leader from outside the state of Louisiana;

F. One (1) current or former state official from outside the state of Louisiana;

G. One (1) current or former city official from outside the state of Louisiana; and

H. Two (2) at-large members.

SECTION 5: No member of the Panel shall be an employee of any level of Louisiana government.

SECTION 6: The chair of the Panel shall be appointed by the governor from the membership of the Panel. All other officers, if any, shall be elected by the membership of the Panel.

SECTION 7: The Panel shall meet at regularly scheduled meetings and at the call of the chair.

SECTION 8: Panel members shall not receive compensation or a per diem from the Office of the Governor for serving on the Panel.

SECTION 9: Support staff, facilities, and resources for the Panel shall be provided by the Department of Culture, Recreation and Tourism.

SECTION 10: The Panel shall stay in existence for a period of one (1) year from the date of issuance of this Order, subject to review and possible renewal by the governor on an annual basis, for up to two (2) additional years.

SECTION 11: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the Panel in implementing the provisions of this Order.

SECTION 12: 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 16th day of February, 2006.

Kathleen Babineaux Blanco  
Governor

ATTEST BY  
THE GOVERNOR  
Al Ater  
Secretary of State  
0603#075

WHEREAS, Sections 1400M and 1400N of the Internal Revenue Code of 1986, as amended (hereafter "the Code"), (i) restricts, during the period commencing December 22, 2005, through January 1, 2011, the total principal amount of Qualified Gulf Opportunity Zone Bonds, hereinafter defined, whose interest may be exempt from federal income tax purposes, that may be issued in Louisiana, to an amount determined by multiplying two thousand five hundred (\$2,500) dollars by the Louisiana population in the "Gulf Opportunity Zone," hereinafter defined, (as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census prior to August 28, 2005) which amount has been calculated to be not more than seven billion eight hundred thirty-nine million seven hundred fifty thousand (\$7,839,750,000) dollars, (ii) limits the total principal amount of certain Advance Refunding Bonds, hereinafter defined, that may be issued and designated by the governor to an amount not exceeding four billion five hundred million (\$4,500,000,000) dollars during the period commencing December 22, 2005, and before January 1, 2011, and (iii) restricts the amount of "Gulf Tax Credit Bonds" that may be designated by the governor and issued after December 31, 2005, and before January 1, 2007, to a face amount not exceeding two hundred million (\$200,000,000) dollars;

WHEREAS, the governor has successfully authorized existing systems used to allocate ceilings on certain other types of bonds authorized to be issued, the interest on which is excluded from income tax for federal tax purposes and for which limitations are placed on such bonds by the federal government;

WHEREAS, the governor hereby elects to (a) establish the method to be used in allocating the ceilings, (b) provide the application procedure for obtaining an allocation of Bonds subject to such ceilings, and (c) establish a system of record keeping for such allocations, for Qualified Gulf Opportunity Zone Bonds, Advance Refunding Bonds, and Gulf Tax Credit Bonds, all as hereinafter defined;

WHEREAS, the creation of a bond allocation system to affect the economic, social and governmental recovery of the state is needed following the unprecedented and extensive damage in the state of Louisiana caused by Hurricane Katrina, its aftermath, and Hurricane Rita; and

WHEREAS, the best interests of the state of Louisiana would be served by establishing a bond allocation system to coordinate the cooperative efforts of the Louisiana State Bond Commission and the Louisiana Department of Economic Development to allocate bonds in a fair and equitable manner and in a manner providing the best and most effective results for the state and its local governments; furthermore, the methodologies and procedures set up by this Order will result in allocating the ceilings for the bonds described herein, from which the governor may designate the Advance Refunding Bonds, hereinafter defined, the Gulf Tax Credit Bonds, hereinafter defined, and from which the Louisiana State Bond Commission may designate the Qualified Gulf Opportunity Zone Bonds, hereinafter defined.

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. "Advance Refunding Bonds" means bonds issued between the period of December 22, 2005, and before January 1, 2011, meeting the requirements of Section 1400N(b) of the Code, as determined by the letter of bond counsel submitted in connection with an application by the Issuer of such bonds for an allocation from the ceiling of four billion five hundred million (\$4,500,000,000) dollars available for such purpose and for designation of such bonds as Advance Refunding Bonds under the ceiling;

2. "Gulf Opportunity Zone" means, with respect to Louisiana and this Order, those areas within the parishes of Acadia, Ascension, Assumption, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Pointe Coupee, Plaquemines, St. Bernard, St. Charles, St. Helena, St. James, St. John, St. Mary, St. Martin, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge, and West Feliciana;

3. "Gulf Tax Credit Bonds" means such bonds issued after December 31, 2005, and before January 1, 2007, as described in Section 1400N(1)(4) of the Code, as determined by the letter of bond counsel submitted in connection with an application by the Issuer of such bonds for an allocation from the ceiling of two hundred million (\$200,000,000) available for such purpose and for designation of such bonds as Gulf Tax Credit Bonds under the ceiling;

4. "Issuer" means the issuer of the (i) Advance Refunding Bonds (including the state of Louisiana or any political subdivision thereof and including those entities that issue bonds on behalf of such entities under the Code and regulations and procedures related thereto), (ii) Gulf Tax Credit Bonds (which will be the state of Louisiana acting through the Louisiana State Bond Commission), and (iii) Qualified Gulf Opportunity Zone Bonds (including the state of Louisiana or any political subdivision thereof and including those entities that issue bonds on behalf of such entities under the Code and regulations and procedures related thereto);

5. "Qualified Gulf Zone Opportunity Bonds" means bonds issued between the period of December 22, 2005, and before January 1, 2011, described in Section 1400N(2) of the Code for projects within the Gulf Opportunity Zone and meeting the requirements of Section 1400N of the Code, as determined by the letter of bond counsel submitted in connection with an application by the Issuer of such bonds for allocation from the ceiling of seven billion eight hundred thirty-nine million seven hundred fifty thousand (\$7,839,750,000) dollars available for such purpose and for designation of such bonds as Qualified Gulf Zone Opportunity Bonds.

SECTION 2: CREATION OF POOLS; METHOD OF ALLOCATION; DESIGNATION OF SUCH BONDS

A. A pool designated as the "Advance Refunding Bonds Pool" is hereby created, from which allocations from the ceiling of up to four billion five hundred million (\$4,500,000,000) dollars of Advance Refunding Bonds shall be granted. Provided that the governor is furnished sufficient back-up and support for the efficiency and economic benefits of each application for an allocation from the Advance Refunding Bonds Pool, the governor will approve, subject to review of the efficiency and economic benefits of each such request, an allocation of a portion of the ceiling for such Advance Refunding Bonds on a first come - first served basis and designate such bonds as Advance Refunding Bonds under the provisions of Section 1400N of the Code until such Pool is reduced to one billion five hundred million (\$1,500,000,000) dollars at which point the governor will devise criteria to evaluate the relative value and benefit for each financing thereafter.

B. A pool designated as the Gulf Tax Credit Bond Pool is hereby created from which allocations from the ceiling of up to two hundred million (\$200,000,000) dollars of Gulf Tax Credit Bonds shall be granted. The governor shall propose to the State Bond Commission, after evaluation of options, a suggested division and application of such amounts. Upon approval by the State Bond Commission, the governor shall grant an allocation and designate such bonds as Gulf Tax Credit Bonds under the provisions of Section 1400N of the Code.

C. A pool designated as the Qualified Gulf Opportunity Zone Bond Pool is hereby created from which allocations from the ceiling of up to seven billion eight hundred thirty-nine million seven hundred fifty thousand (\$7,839,750,000) dollars of Qualified Gulf Opportunity Zone Bonds shall be granted. Each application for an allocation from the Qualified Gulf Opportunity Zone Bond Pool shall be simultaneously furnished and filed with the Louisiana Department of Economic Development and the Louisiana State Bond Commission. The secretary of the Louisiana Department of Economic Development shall (within two weeks, to the extent possible and in any event within four weeks) make recommendations to the governor to assist in the determination of the economic benefits of the Projects to be financed in order to achieve the greatest potential return to the state from authorized uses. Upon the granting of an allocation from the Qualified Gulf Opportunity Zone Bond Pool by the governor and approval and designation of the Bonds as Qualified Gulf Opportunity Zone Bonds by the Louisiana State Bond Commission, such bonds shall be deemed designated as Qualified Gulf Opportunity Zone Bonds within the meaning of Section 1400N of the Code.

D. The allocation of the ceiling from the respective pools may be considered by the governor and the Louisiana State Bond Commission (with respect to the Qualified Gulf Opportunity Zone Bonds) on the basis of additional criteria established by the governor and the Louisiana State Bond Commission (with respect to the Qualified Gulf Opportunity Zone Bonds), which may be revised from time to time at their discretion.

E. The issuance of an executive order by the governor awarding a portion of the respective ceilings for Advance Refunding Bonds and for Gulf Tax Credit Bonds and designating such bonds as such shall be evidence of

each allocation granted for such purposes pursuant to this Order. A copy of such executive order shall be promptly furnished to the Louisiana State Bond Commission for information and record keeping purposes.

### SECTION 3: APPLICATION PROCEDURE FOR ALLOCATIONS

A. Issuers may apply for allocations.

B. The governor shall propose a use of the Gulf Tax Credit Bond Pool to the State Bond Commission, which shall adopt a resolution, to the extent it approves, requesting an allocation from the ceiling with respect thereto and designation of such bonds as Gulf Tax Credit Bonds. Such request for an allocation shall be accompanied by the letter of bond counsel determining that such allocation will constitute an allocation for bonds that meet the requirements of Gulf Tax Credit Bonds under Section 1400N of the Code, provided the Issuer receives an allocation and designation.

C. An application for an allocation from the Advance Refunding Bond Pool shall be submitted by the Issuer to the Louisiana State Bond Commission, with a copy to the governor, or the governor's designee, requesting an allocation from the ceiling with respect thereto and designation of such bonds as Advance Refunding Bonds and together with back-up and support for the efficiency and economic benefits of each application. Such request for an allocation shall be accompanied by the letter of bond counsel determining that such allocation will constitute an allocation for bonds that meet the requirements of Advance Refunding Bonds under Section 1400N of the Code, provided the Issuer receives an allocation and designation.

D. An application for an allocation from the Qualified Gulf Opportunity Zone Bond Pool for Qualified Gulf Opportunity Zone Bonds shall be submitted by the Issuer to the Louisiana State Bond Commission staff, with a copy to the governor, or the governor's designee, and to the secretary of the Louisiana Department of Economic Development, requesting an allocation from the ceiling with respect thereto and designation of such bonds as Qualified Gulf Opportunity Zone Bonds. Such request for an allocation shall be accompanied by the letter of bond counsel determining that such allocation will constitute an allocation for bonds that meet the requirements of Qualified Gulf Opportunity Zone Bonds under Section 1400N of the Code, provided the Issuer receives an allocation and designation as such. The secretary of the Louisiana Department of Economic Development, or the secretary's designee, shall provide a report (within two weeks and not longer than four weeks) to the governor and the Louisiana State Bond Commission, supporting or opposing such allocation request for each application.

E. An application for an allocation from the Qualified Gulf Opportunity Zone Bond Pool for Qualified Gulf Opportunity Zone Bonds for residential projects or purposes shall be submitted by the Issuer to the Louisiana State Bond Commission staff, with a copy to the governor, or the governor's designee, requesting an allocation from the ceiling with respect thereto and designation of such bonds as Qualified Gulf Opportunity Zone Bonds. Such request for an allocation shall be accompanied by the letter of bond counsel determining that such allocation will constitute an allocation for bonds that meet the requirements of Qualified Gulf Opportunity Zone Bonds under Section 1400N of the Code,

provided the Issuer receives an allocation and designation of such. The staff of the Louisiana State Bond Commission shall provide a report to the governor supporting or opposing such allocation request for each application.

F. Other than with respect to an application from the Gulf Tax Credit Bond Pool, an Issuer who proposes to issue bonds for a specific project(s) or for a specific purpose(s) must apply for an allocation of a portion of the ceiling for the particular project(s) or purpose(s). The application form, if any, may be revised from time to time at the discretion of the governor and the Louisiana State Bond Commission (with respect to Qualified Gulf Opportunity Zone Bonds). However, at a minimum, all applications for allocations from the Qualified Gulf Opportunity Zone Bond Pool must contain the following information:

1. The name and address of the Issuer of the bonds;

2. In the case of bonds (other than Qualified Gulf Opportunity Zone Bonds for mortgage revenue bonds, qualified mortgage bonds, and qualified veterans' mortgage bonds as referred to in Section 1004N of the Code) the name and mailing address of (a) the initial owner or operator of the project, (b) an appropriate person from whom information regarding the project can be obtained, and (c) 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(s) or purpose(s) of the application, including, without limitation, a statement of the minimum amount of allocation that will support the issuance of the project (including the address or other description of its location) or the purpose to be financed; and

5. In the case of Qualified Gulf Opportunity Zone Bonds to be issued for multi-family housing rental projects, 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 employment center or within a targeted area within the meaning of Code;

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;

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

f) Identify whether the project is related to the recovery efforts of Hurricanes Katrina and/or Rita and if so, whether the project consists of the construction of replacement property;

g) Set forth the outside maturity of the bonds and whether there are any expectations of early prepayment

or any events set up for the future that would result in an expected early redemption of the bonds; and

6. In the case of Qualified Gulf Opportunity Zone Bonds the following criteria must be included on the application;

a) Set forth the outside maturity of the bonds and whether there are any expectations of early prepayment or any events set up for the future that would result in an expected early redemption of the bonds;

b) Identify the number of jobs to be created during construction and the expected payroll and the number of jobs to be created and/or retained and the average salary for both new and retained jobs and whether health care benefits will be made available for construction and retained jobs as well as the amount of the capital investment made or to be made toward the project; and

c) Identify other state programs that provide any financial or business incentives as part of this expansion or new location.

7. Either (a) 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; (b) 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 one hundred twenty (120) 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 seven thousand five hundred (\$7,500) dollars escrow 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. The seven thousand five hundred (\$7,500) dollars escrow deposit shall be returned to the party depositing the same without interest upon the substitution of the items described in (a) or (b), 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 any additional criteria established from time to time by the governor;

11. A letter from bond counsel, addressed to the governor and the Louisiana State Bond Commission, expressing that the bonds for which an allocation is requested are subject to the ceiling from which the allocation is requested; and

12. An explanation why it is necessary to request and receive an allocation from the Qualified Gulf

Opportunity Zone Bond Pool instead of from the separate private activity bond limitations otherwise administered by the governor.

F. Upon receipt of the application, the Louisiana State Bond Commission staff shall determine if the requirements of this Order for such application have been met and report to the governor.

G. Any allocation from the ceiling shall expire unless the bonds receiving the allocation are delivered by the earlier of (1) one hundred twenty (120) days from the date of notice of allocation is mailed to the person designated, or (2) one hundred twenty (120) days before the end of the allocation period for such pool (unless the allocation is granted within the last one hundred twenty (120) days of a calendar year). 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.

H. The Louisiana State Bond Commission staff shall promptly notify the governor when the Advance Refunding Bond Pool reaches a level of one billion five hundred million (\$1,500,000,000) dollars or less.

I. The Louisiana State Bond Commission staff shall maintain accurate records of all allocations and all Bonds delivered. All Issuers of bonds that have received an allocation shall notify the Louisiana State Bond Commission 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 Louisiana State Bond Commission staff shall provide to any person so requesting, within a reasonable time: (a) the amount of unallocated ceiling remaining on the date such request is made; (b) a list of allocations (naming the Issuer and amount of allocation) which have been made and the date of each allocation; (c) a list of applications being held by the Louisiana State Bond Commission staff which have not received an allocation; and (d) a list of bonds which have been given an allocation and have been delivered.

J. This Order only relates to bonds subject to the bond volume limitations set forth in Section 1004N of the Code. No Issuer shall apply for or be entitled to an allocation from the ceiling for bonds that are not subject to the limitations set forth in Section 1004N.

K. Any modification, amendment, supplementation, or rescission of this Order, if any, shall not rescind any allocation and/or designation of bonds pursuant to the terms of this Order if such allocation and/or designation is required under federal law in order to maintain the tax-exempt status of the bonds receiving the allocation and/or designation.

#### SECTION 4. MISCELLANEOUS PROVISIONS

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

B. 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 16th day of February, 2006.

Kathleen Babineaux Blanco  
Governor

ATTEST BY  
THE GOVERNOR  
Al Ater  
Secretary of State  
0603#076

#### EXECUTIVE ORDER KBB 06-10

Emergency Suspension of Certain Workers' Compensation Laws—Extends Executive Order No. KBB 05-52

WHEREAS, on September 29, 2005, as a result of the mass displacement of injured workers and medical providers and closure of numerous medical facilities as well as significant massive communication challenges, Executive Order KBB 2005-52 was issued which suspended portions of R.S. 23:1124 regarding consequences for injured workers for failure to timely submit to a medical examination;

WHEREAS, such suspension of the statute only applied for claimants who evacuated due to Hurricane Katrina and/or Rita and only for such time as the claimant remained in evacuee status;

WHEREAS, while the suspension of those portions of the statute prevented a workers' compensation payor from suspending payments on their own, it did not suspend a payor's right to file for a hearing regarding suspension of benefits pending the medical examination;

WHEREAS, Executive Order KBB 2005-52 also suspended portions of R.S. 23:1203(A) to the extent that such statute differentiates between in-state and out-of-state providers and facilities to provide that for claimants who evacuated to a location outside of Louisiana and for the time period as such claimant resides outside of Louisiana, any medical care, services and treatment shall be provided as though the provider or facility was located in Louisiana;

WHEREAS, Executive Order No. KBB 2005-74, issued on October 25, 2005, extended the effective date until Monday, November 28, 2005; Executive Order No. KBB 2005-88, issued on November 21, 2005, extended the effective date until Monday, January 1, 2006; and Executive Order No. KBB 2005-100, issued on December 27, 2005, extended the effective date until Tuesday, February 28, 2006; and

WHEREAS, the secretary of the Department of Labor has requested this Order be extended until Friday, June 30, 2006;

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 2005-52, issued on September 29, 2005, as amended by Executive Order Nos. KBB 2005-74, KBB 2005-88, and KBB 2005-100, is amended as follows:

This Order is effective upon signature and shall apply retroactively from Monday, August 29, 2005, through Monday, July 17, 2006, unless amended, modified,

terminated, or rescinded by the governor, or terminated by operation of law prior to Friday, June 30, 2006.

SECTION 2: All other sections, subsections, and paragraphs of Executive Order No. KBB 2005-52, issued on September 29, 2005, as amended by Executive Order Nos. KBB 2005-74, KBB 2005-88, and KBB 2005-100 shall remain in full force and effect.

SECTION 3: This Order is effective upon signature and shall continue in effect until Friday, June 30, 2006, unless amended, modified, terminated, or rescinded by the governor, or terminated by operation of law prior to Friday, June 30, 2006.

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 28th day of February, 2006.

Kathleen Babineaux Blanco  
Governor

ATTEST BY  
THE GOVERNOR  
Al Ater  
Secretary of State  
0603#077

#### EXECUTIVE ORDER KBB 06-11

Louisiana Stadium and Exposition District  
Authorization for Series 2006 Bonds

WHEREAS, the Louisiana Stadium and Exposition District (hereafter the "District") was originally created as a body politic and corporate of the state of Louisiana (hereafter the "State"), composed of all of the territory in the parishes of Orleans and Jefferson, under the authority of Article XIV, Section 47 of the 1921 Constitution of the State, as amended, continued as a statute by Article XIV, Section 16 of the 1974 Constitution of the State (the "Original Act"), for the purpose of planning, financing, developing, maintaining and operating facilities to be located within the District to accommodate the holding of sports events, athletic contests and other events of public interest;

WHEREAS, as provided in La. R.S. 39:1421 through 1430.1, and La. R.S. 39:1444 through 1456, and the Original Act, as amended (collectively, the "Act"), the District desires to issue not exceeding three hundred million (\$300,000,000) dollars of its Revenue and Refunding Bonds, Series 2006, for the purpose of

(i) refunding its outstanding Hotel Occupancy Tax Bonds, Series 1994A, Hotel Occupancy Tax Bonds, Series 1995A, Hotel Occupancy Tax Bonds, Series 1995B, Hotel Occupancy Tax Bonds, Series 1996, Taxable Hotel Occupancy Tax Bonds, Series 1998A, Hotel Occupancy Tax Refunding Bonds, Series 1998B, Taxable Refunding Bonds, Series 2004, Revenue Anticipation Note, Series 2005, and a SMG Advance (collectively, hereafter the "Prior Debt"),

(ii) paying operational expenses of the District,

(iii) funding the costs of constructing, improving and acquiring capital improvements and betterments to the Louisiana Superdome and

(iv) paying costs of issuance of the Series 2006 Bonds;

WHEREAS, the refunding of the Prior Debt will result in present value interest cost savings to the District and will enable the District to have cash flow savings over the next few years, which is essential to the recovery of the District's finances as a result of Hurricane Katrina;

WHEREAS, the new money provided by the issuance of the Series 2006 Bonds will provide additional money for operational purposes and for improvements to the Superdome which are essential to be made after Hurricane Katrina;

WHEREAS, the Act provides that for the purposes of issuing and servicing bonds, the District shall be acting solely in its capacity as a political subdivision of the State;

WHEREAS, as stated in the General Bond Resolution issuing the Series 2006 Bonds, the Series 2006 Bonds will not constitute an indebtedness, general or special, or a liability of the State or the parishes of Orleans and Jefferson, state of Louisiana (hereafter "Parishes") and will not be considered a debt of the State or the Parishes within the meaning of the Constitution or the statutes of the State and will not constitute a charge against the credit or taxing power of the State or the Parishes, but are limited obligations of the District, which is obligated to pay the principal of, premium, if any, and interest on the Series 2006 Bonds only from amounts pledged under the General Bond Resolution, which include certain "Available Revenues" which are certain funds, income, revenue, fees, receipts or charges of any nature from any source whatsoever on deposit with or accruing from time to time to the District; and

WHEREAS, the Act further provides that prior to the sale of the Series 2006 Bonds, there shall be filed with the District and the State Bond Commission an executive order

of the Governor approving the issuance of the Series 2006 Bonds;

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 Pursuant to the provisions of the Act and in accordance with the terms of the resolutions issuing the Series 2006 Bonds and providing for the details thereof in accordance with the terms of their sale, the District is authorized to issue the Series 2006 Bonds in an amount not exceeding three hundred million (\$300,000,000) dollars.

SECTION 2 All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the District in implementing the provisions of this Order.

SECTION 3 The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in Baton Rouge, Louisiana, on this 6th day of March, 2006.

Kathleen Babineaux Blanco  
Governor

ATTEST BY  
THE GOVERNOR  
Al Ater  
Secretary of State  
0603#078

# Emergency Rules

## DECLARATION OF EMERGENCY

**Tuition Trust Authority  
Office of Student Financial Assistance**

START Savings Program—Interest Rate  
(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 these Emergency Rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective March 7, 2005, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (ST0670E)

### Title 28

### EDUCATION

#### Part VI. Student Financial Assistance—Higher Education Savings—Tuition Trust Authority

#### Chapter 3. Education Savings Account

#### §315. Miscellaneous Provisions

A. - B.12. ...

13. For the year ending December 31, 2005, the Louisiana Education Tuition and Savings Fund earned an interest rate of 3.64 percent.

14. For the year ending December 31, 2005, the Earnings Enhancements Fund earned an interest rate of 4.92 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 31:2216 (September 2005), LR 32:

George Badge Eldredge  
General Counsel

0603#073

## DECLARATION OF EMERGENCY

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

Expedited Penalty Agreement  
(LAC 33:I.801, 803, 805, and 807)(OS054E8)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allow the Department of Environmental Quality to use emergency procedures to establish rules, and of R.S. 30:2011 and 2074, which allow the department to establish standards, guidelines, and criteria, to promulgate rules and regulations, and to issue compliance schedules, the secretary of the department hereby declares that an emergency action is necessary in order to implement expedited penalty agreements.

This is a renewal and revision of Emergency Rule OS054E7, which was effective on November 10, 2005, and published in the *Louisiana Register* on November 20, 2005. This renewal of the Emergency Rule changes the definition describing which water permits are subject to this Rule and redefines the violations for the water citations, as well as adds the requirement of mandatory training in a department-sponsored class for certain of the water violations. Additionally, the History of Previous Violations or Repeated Noncompliance paragraph has been clarified. The Emergency Rule will abate the delay in correcting minor and moderate violations of the Environmental Quality Act. Delays in enforcement reduce the effectiveness of the action, unnecessarily utilize resources, and slow down the enforcement process. In the past three years alone, the Enforcement Division has received 8,139 referrals and has issued 4,259 actions. Currently strained budget and resource issues pose imminent impairment to addressing minor and moderate violations. This Rule will provide an alternative penalty assessment mechanism that the department may utilize, at its discretion, to expedite penalty agreements in appropriate cases. The report to the Governor by the Advisory Task Force on Funding and Efficiency of the Louisiana Department of Environmental Quality recommended this action as a pilot program. The legislature approved the report and passed Act 1196 in the 2003 Regular Session allowing the department to promulgate rules for the program. This Emergency Rule allows the operation of the pilot program to commence immediately, without the delay and inflexibility of a permanent Rule. It will also allow the department to gather information to formulate a long-term rule and to evaluate the environmental and public health benefits and the social and economic costs of such a program in order to justify these requirements for the permanent rule.

This Emergency Rule is effective on March 10, 2006, 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 OS054E8 you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at [www.deq.louisiana.gov](http://www.deq.louisiana.gov) under Rules and Regulations, and is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

### Title 33

## ENVIRONMENTAL QUALITY

### Part I. Office of the Secretary

#### Subpart 1. Departmental Administrative Procedures

#### Chapter 8. Expedited Penalty Agreement

##### §801. Definitions

*Agency Interest Number*—a site-specific number assigned to a facility by the department that identifies the facility in a distinct geographical location.

*Qualifying Permit Parameter*—repealed from OS054E7.

*Expedited Penalty Agreement*—a predetermined penalty assessment issued by the department and agreed to by the respondent, which identifies violations of minor or moderate gravity as determined by LAC 33:I.705, caused or allowed by the respondent and occurring on specified dates, in accordance with R.S. 30:2025(D).

*LPDES General Permit*—for the purposes of this Chapter, any Louisiana Pollutant Discharge Elimination System Permit in the LAG530000, LAG540000, LAR750000, LAR050000, or LAR100000 series.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:

##### §803. Purpose

A. The purpose of this Chapter is to provide an alternative penalty assessment mechanism that the department may utilize, at its discretion, to expedite penalty assessments in appropriate cases. This Chapter:

1. addresses common violations of minor or moderate gravity;
2. quantifies and assesses penalty amounts for common violations in a consistent, fair, and equitable manner;
3. ensures that the penalty amounts are appropriate, in consideration of the nine factors listed in R.S. 30:2025(E)(3)(a);
4. eliminates economic incentives for noncompliance for common minor and/or moderate violations; and
5. ensures expeditious compliance with environmental regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:

##### §805. Applicability

A. *Limit of Penalty Amount*. The total penalty assessed for the expedited penalty agreement shall not exceed \$1,500 for one violation or \$3,000 for two or more violations per penalty assessed.

B. *Departmental Discretion*. The secretary of the department or his designee, at his sole discretion, may propose an expedited penalty agreement for any violation described in LAC 33:I.807.A and considered in accordance with Subsection E of this Section. The expedited penalty agreement shall specify that the respondent waives any right to an adjudicatory hearing or judicial review regarding violations identified in the signed expedited penalty agreement. The respondent must concur with and sign the expedited penalty agreement in order to be governed by this Chapter and R.S. 30:2025(D).

C. *Notification to the Respondent*. The expedited penalty agreement shall serve as notification to the respondent of the assessed penalty amount for the violations identified on the specified dates.

D. *Certification by the Respondent*. By signing the expedited penalty agreement, the respondent certifies that all cited violations in the expedited penalty agreement have been or will be corrected, and that the assessed penalty amount has been or will be paid, within 30 days of receipt of the expedited penalty agreement.

E. *Nine Factors for Consideration*. An expedited penalty agreement may be used only when the following criteria for the nine factors for consideration are satisfied.

1. *The History of Previous Violations or Repeated Noncompliance*. The violation identified in the expedited penalty agreement is not the same as or similar to a violation that occurred within the previous two years at the facility under the same agency interest number, and that was identified in any compliance order, penalty assessment, settlement agreement, or expedited penalty agreement issued to the respondent by the department. Site-specific enforcement history considerations will only apply to expedited penalty agreements.

2. *The Nature and Gravity of the Violation*. The violation identified is considered to be minor or moderate with regard to its nature and gravity.

a. The violation identified in the expedited penalty agreement deviates somewhat from the requirements of statutes, regulations, or permit; however, the violation exhibits at least substantial implementation of the requirements.

b. The violation identified is isolated in occurrence and limited in duration.

c. The violation is easily identifiable and corrected.

d. The respondent concurs with the violation identified and agrees to correct the violation identified and any damages caused or allowed by the identified violation within 30 days of receipt of the expedited penalty agreement.

3. *The Gross Revenues Generated by the Respondent*. By signing the expedited penalty agreement, the respondent agrees that sufficient gross revenues exist to pay the assessed penalty and correct the violation identified in the expedited penalty agreement within 30 days of receipt of the expedited penalty agreement.

4. The Degree of Culpability, Recalcitrance, Defiance, or Indifference to Regulations or Orders. The respondent is culpable for the violation identified, but has not shown recalcitrance, defiance, or extreme indifference to regulations or orders. Willingness to sign an expedited penalty agreement and correct the identified violation within the specified timeframe demonstrates respect for the regulations and a willingness to comply.

5. The Monetary Benefits Realized Through Noncompliance. The respondent's monetary benefit from noncompliance for the violation identified shall be considered. The intent of these regulations is to eliminate economic incentives for noncompliance.

6. The Degree of Risk to Human Health or Property Caused by the Violation. The violation identified does not present actual harm or substantial risk of harm to the environment or public health. The violation identified is isolated in occurrence or administrative in nature, and the violation identified has no measurable detrimental effect on the environment or public health.

7. Whether the Noncompliance or Violation and the Surrounding Circumstances Were Immediately Reported to the Department and Whether the Violation or Noncompliance Was Concealed or There Was an Attempt to Conceal by the Person Charged. Depending upon the type of violation, failure to report may or may not be applicable to this factor. If the respondent concealed or attempted to conceal any violation, the violation shall not qualify for consideration under these regulations.

8. Whether the Person Charged Has Failed to Mitigate or to Make a Reasonable Attempt to Mitigate the Damages Caused by the Noncompliance or Violation. By signing the expedited penalty agreement, the respondent states that the violation identified and the resulting damages, if any, have been or will be corrected. Violations considered for expedited penalty agreements are, by nature, easily identified and corrected. Damages caused by any violation identified are expected to be nonexistent or minimal.

9. The Costs of Bringing and Prosecuting an Enforcement Action, Such as Staff Time, Equipment Use, Hearing Records, and Expert Assistance. Enforcement costs for the expedited penalty agreement are considered minimal. Enforcement costs for individual violations are covered with the penalty amount set forth for each violation in LAC 33:I.807.

F. Schedule. The respondent must return the signed expedited penalty agreement and payment for the assessed amount to the department within 30 days of the respondent's receipt of the expedited penalty agreement. If the department has not received the signed expedited penalty agreement and payment for the assessed amount by the close of business on the thirtieth day after the respondent's receipt of the expedited penalty agreement, the expedited penalty agreement may be withdrawn at the department's discretion.

G. Extensions. If the department determines that compliance with the cited violation is technically infeasible or impracticable within the initial 30-day period for

compliance, the department, at its discretion, may grant one 30-day extension in order for the respondent to correct the violation cited in the expedited penalty agreement.

#### H. Additional Rights of the Department

1. If the respondent signs the expedited penalty agreement, but fails to correct the violation identified, pay the assessed amount, or correct any damages caused or allowed by the cited violation within the specified timeframe, the department may issue additional enforcement actions including, but not limited to, a civil penalty assessment and may take any other action authorized by law to enforce the terms of the expedited penalty agreement.

2. If the respondent does not agree to and sign the expedited penalty agreement, the department may notify the respondent that a formal civil penalty is under consideration. The department may then pursue formal enforcement action against the respondent in accordance with R.S. 30:2025(C), 2025(E), 2050.2, and 2050.3.

I. Required Documentation. The department shall not propose any expedited penalty agreement without an affidavit, inspection report, or other documentation to establish that the respondent has caused or allowed the violation to occur on the specified dates.

J. Evidentiary Requirements. Any expedited penalty agreement issued by the department shall notify the respondent of the evidence used to establish that the respondent has caused or allowed the violation to occur on the specified dates.

K. Public Enforcement List. The signed expedited penalty agreement is a final enforcement action of the department and shall be included on the public list of enforcement actions referenced in R.S. 30:2050.1(B)(1).

L. Date of Issuance. When an expedited penalty agreement is issued in conjunction with a Notice of Potential Penalty, the following issuance dates shall apply.

1. If the respondent does not wish to participate in the expedited penalty agreement program, the issuance date for the Notice of Potential Penalty portion of the document shall be 30 days after the respondent receives the document.

2. If the respondent does wish to participate in the expedited penalty agreement program, the issuance date for the expedited penalty agreement portion of the document shall be the date the administrative authority signs the document for the second, and final, time.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:

### **§807. Types of Violations and Expedited Penalty Amounts**

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

Expedited Penalties			
Violation	Citation	Amount	Frequency
<b>ALL MEDIA</b>			
Failure to provide timely notification for the unauthorized discharge of any material that exceeds the reportable quantity but does not cause an emergency condition.	LAC 33:I.3917.A	\$300	Per day
Failure to provide timely written notification for the unauthorized discharge of any material that exceeds the reportable quantity but does not cause an emergency condition.	LAC 33:I.3925.A	\$300	Per day
<b>AIR QUALITY</b>			
40 CFR Part 70 General Permit conditions (Part K, L, M, or R): Failure to timely submit any applicable annual, semiannual, or quarterly reports.	LAC 33:III.501.C.4	\$500	Per occurrence
Failure to submit an Annual Criteria Pollutant Emissions Inventory in a timely and complete manner when applicable.	LAC 33:III.919	\$500	Per occurrence
Failure to submit an Annual Toxic Emissions Data Inventory in a timely and complete manner when applicable.	LAC 33:III.5107	\$500	Per occurrence
Control of Fugitive Emissions, sandblasting facilities: Failure to take all reasonable precautions to prevent particulate matter from becoming airborne.	LAC 33:III.1305.A	\$250	Per occurrence
Failure to provide notice of change of ownership within 90 days after the change.	LAC 33:III.517.G	\$200	Per occurrence
Failure to timely submit any applicable Specific Condition or General Condition report as specified in a minor source permit.	LAC 33:III.501.C.4	\$250	Per occurrence
Failure to timely submit any applicable Specific Condition or General Condition report (other than those specified elsewhere in this Section) as specified in a Part 70 (Title V) air permit.	LAC 33:III.501.C.4	\$350	Per occurrence
Failure to submit an updated Emission Point List, Emissions Inventory Questionnaire (EIQ), emissions calculations, and certification statement as described in LAC 33:III.517.B.1 within seven calendar days after effecting any modification to a facility authorized to operate under a standard oil and gas permit.	LAC 33:III.501.C.4	\$750	Per occurrence/ emission point

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to submit the Title V permit renewal application at least six months prior to the date of expiration, applicable only when the renewal application is submitted prior to permit expiration and a renewal permit is issued on or before the expiration date.	LAC 33:III.507.E.4	\$1,000	Per occurrence
Failure to maintain records for glycol dehydrators subject to LAC 33:III.2116.	LAC 33:III.2116.F	\$250	Per occurrence
Failure to submit an initial perchloroethylene inventory report.	LAC 33:III.5307.A	\$250	Per occurrence
Failure to submit perchloroethylene usage reports by July 1 for the preceding calendar year.	LAC 33:III.5307.B	\$250	Per occurrence
<b>Stage II Vapor Recovery</b>			
Note: LAC 33:III.2132 is only applicable to subject gasoline dispensing facilities in the parishes of Ascension, East Baton Rouge, West Baton Rouge, Iberville, Livingston, and Pointe Coupee.			
Failure to submit an application to the administrative authority prior to installation of the Stage II vapor recovery system.	LAC 33:III.2132.B.6	\$500	Per occurrence
Failure to have at least one person trained as required by the regulations.	LAC 33:III.2132.C	\$300	Per occurrence
Failure to test the vapor recovery system prior to start-up of the facility and annually thereafter.	LAC 33:III.2132.D	\$750	Per occurrence
Failure to post operating instructions on each pump.	LAC 33:III.2132.E	\$100	Per occurrence
Failure to maintain equipment and tag defective equipment "out of order."	LAC 33:III.2132.F.1 and 3-4	\$500	Per inspection
Failure to perform daily inspections and accurately record results.	LAC 33:III.2132.F.2	\$300	Per inspection
Failure to maintain records on-site for at least two years and present them to an authorized representative upon request.	LAC 33:III.2132.G.1-7	\$300	Per compliance inspection
Failure to use and/or diligently maintain, in proper working order, all air pollution control equipment installed at the site.	LAC 33:III.905	\$100	Per occurrence
<b>HAZARDOUS WASTE</b>			
<b>Used Oil</b>			
Failure of a used oil generator to stop, contain, clean up, and/or manage a release of used oil, and/or repair or replace leaking used oil containers or tanks prior to returning them to service.	LAC 33:V.4013.E	\$500	Per occurrence

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure of a used oil transfer facility to stop, contain, clean up, and/or manage a release of used oil, and/or repair or replace leaking used oil containers or tanks prior to returning them to service.	LAC 33:V.4035.H	\$500	Per occurrence
Failure of a used oil processor or re-refiner to stop, contain, clean up, and/or manage a release of used oil, and/or repair or replace leaking used oil containers or tanks prior to returning them to service.	LAC 33:V.4049.G	\$500	Per occurrence
Failure of a used oil burner to stop, contain, clean up, and/or manage a release of used oil, and/or repair or replace leaking used oil containers or tanks prior to returning them to service.	LAC 33:V.4069.G	\$500	Per occurrence
SOLID WASTE			
Waste Tires			
Storage of more than 20 whole tires without authorization from the administrative authority.	LAC 33:VII.10509.B	\$200	Per occurrence
Transporting more than 20 tires without first obtaining a transporter authorization certificate.	LAC 33:VII.10509.C	\$200	Per occurrence
Storing tires for greater than 365 days.	LAC 33:VII.10509.E	\$200	Per occurrence
Failure to maintain all required records for three years on-site or at an alternative site approved in writing by the administrative authority.	LAC 33:VII.10509.G	\$200	Per occurrence
Failure to obtain a waste tire generator identification number within 30 days of commencing business operations.	LAC 33:VII.10519.A	\$300	Per occurrence
Failure to accept one waste tire for every new tire sold unless the purchaser chooses to keep the waste tire.	LAC 33:VII.10519.B	\$100	Per occurrence
Failure to remit waste tire fees to the state on a monthly basis as specified.	LAC 33:VII.10519.D	\$100	Per occurrence
Failure to post required notifications to the public.	LAC 33:VII.10519.E	\$100	Per occurrence
Failure to list the waste tire fee on a separate line on the invoice so that no tax will be charged on the fee.	LAC 33:VII.10519.F	\$100	Per occurrence
Failure to keep waste tires or waste tire material covered as specified.	LAC 33:VII.10519.H	\$200	Per occurrence
Failure to segregate waste tires from new or used tires offered for sale.	LAC 33:VII.10519.M	\$200	Per occurrence
Failure to provide a manifest for all waste tire shipments containing more than 20 tires.	LAC 33:VII.10533.A	\$200	Per occurrence
Failure to maintain completed manifests for three years and have them available for inspection.	LAC 33:VII.10533.D	\$200	Per occurrence

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to collect appropriate waste tire fee for each new tire sold.	LAC 33:VII.10519.C, 10535.B	\$200	Per occurrence
Failure to submit application and fees for transporter authorization.	LAC 33:VII.10523.A	\$300	Per occurrence
Failure to use a manifest when transporting greater than 20 waste tires.	LAC 33:VII.10523.C	\$200	Per occurrence
Failure of transporter to transport all waste tires to an authorized collection center or a permitted processing facility.	LAC 33:VII.10523.D	\$300	Per occurrence
Failure of out-of-state or out-of-country transporters to comply with state waste tire regulations.	LAC 33:VII.10523.E	\$200	Per occurrence
Failure to provide notification in writing within 10 days when any information on the authorization certificate form changes, or if the business closes and ceases transporting waste tires.	LAC 33:VII.10523.G	\$100	Per occurrence
Failure by collectors or collection centers to follow the requirements for receipt of tires.	LAC 33:VII.10527.A	\$200	Per occurrence
Failure of collection center operators to meet the standards in LAC 33:VII.10525.D.1-10 and 12-24.	LAC 33:VII.10527.B	\$300	Per occurrence
Failure of recyclers to provide notification of their existence and obtain an identification number.	LAC 33:VII.10531.A	\$300	Per occurrence
Failure of waste tire or waste tire material recyclers to meet the requirements of LAC 33:VII.10525.D.	LAC 33:VII.10531.B	\$300	Per occurrence
Failure to follow the requirements for manifest discrepancies.	LAC 33:VII.10533.C	\$300	Per occurrence
WATER QUALITY			
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule A permit.	LAC 33:IX.2701.A	\$200 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule A permit.	LAC 33:IX.2701.A	\$400 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule B permit.	LAC 33:IX.2701.A	\$300 and completion of a department-sponsored compliance class	10 or fewer violations

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule B permit.	LAC 33:IX.2701.A	\$500 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with any portion(s) of an LPDES LAG540000 permit.	LAC 33:IX.2701.A	\$400 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG540000 permit.	LAC 33:IX.2701.A	\$600 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with any portion(s) of an LPDES LAG750000 permit.	LAC 33:IX.2701.A	\$400 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG750000 permit.	LAC 33:IX.2701.A	\$600 and completion of a department-sponsored compliance class	More than 10 violations
Failure to develop and/or implement a Spill Prevention and Control Plan (SPC):			
1. Failing to develop an SPC plan for any applicable facility.	LAC 33:IX.905	\$500	Per occurrence
2. Failing to implement any component of an SPC plan.	LAC 33:IX.905	\$100	Per occurrence
Failure to submit certain reports as required by any LPDES permit not previously defined in LAC 33:IX.Chapter 27, including storm water reports, pretreatment reports, biomonitoring reports, overflow reports, construction schedule progress reports, environmental audit reports as required by a municipal pollution prevention plan, and toxicity reduction evaluation reports.	LAC 33:IX.2701.A	\$300	Per required submittal
Failure to prepare and/or implement any portion or portions of a Storm Water Pollution Plan (SWPPP), Pollution Prevention Plan (PPP), or Best Management Practices/Plan (BMP) as required by any LPDES permit.	LAC 33:IX.2701.A	\$500	Per occurrence

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to submit a Notice of Intent for coverage under the LAR050000 or LAR100000 LPDES Storm Water General Permit.	LAC 33:IX.2511.C.1	\$1,000	Per occurrence
Failure to submit a noncompliance report required by any LPDES permit not previously defined in LAC 33:IX.Chapter 27.	LAC 33:IX.2701.L.7	\$200	Per occurrence
Unauthorized discharge of oil field wastes, including produced water.	LAC 33:IX.1901.A	\$1,000	Per occurrence
Unauthorized discharge of oily fluids.	LAC 33:IX.1701.B	\$1,000	Per occurrence
<b>UNDERGROUND STORAGE TANKS</b>			
Failure to register existing or new USTs containing regulated substances.	LAC 33:XI.301.A-B	\$300	Per inspection
Failure to certify and provide required information on the department's approved registration form.	LAC 33:XI.301.B.1-2	\$300	Per inspection
Failure to provide notification within 30 days after selling a UST system or acquiring a UST system; failure to keep a current copy of the registration form on-site or at the nearest staffed facility.	LAC 33:XI.301.C.1-3	\$300	Per inspection
Failure to provide corrosion protection to tanks that routinely contain regulated substances using one of the specified methods.	LAC 33:XI.303.B.1	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to provide corrosion protection to piping that routinely contains regulated substances using one of the specified methods.	LAC 33:XI.303.B.2	\$250 and completion of a department-sponsored compliance class	Per inspection
Failure to provide corrosion protection to flex hoses and/or sub-pumps that routinely contain regulated substances using one of the specified methods.	LAC 33:XI.303.B.2	\$100 and completion of a department-sponsored compliance class	Per inspection
Failure to provide spill and/or overflow prevention equipment as specified.	LAC 33:XI.303.B.3	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to upgrade existing UST systems to new system standards as specified.	LAC 33:XI.303.C	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to pay fees by the required date.	LAC 33:XI.307.D	\$200	Per inspection



Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to report, investigate, and/or clean up any spills and overfills.	LAC 33:XI.501.C	\$1,500	Per inspection
Failure to continuously operate and maintain corrosion protection to the metal components of portions of the tank and piping that routinely contain regulated substances and are in contact with the ground or water.	LAC 33:XI.503.A.1	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to have UST systems equipped with cathodic protection systems inspected for proper operation as specified.	LAC 33:XI.503.A.2	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to inspect UST systems with impressed current cathodic protection systems every 60 days to ensure that the equipment is running properly.	LAC 33:XI.503.A.3	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to comply with recordkeeping requirements.	LAC 33:XI.503.B	\$200 and completion of a department-sponsored compliance class	Per inspection
Failure to meet requirements for repairs to UST systems.	LAC 33:XI.507	\$300	Per inspection
Failure to follow reporting requirements, maintain required information, and/or keep records at the UST site and make them immediately available or keep them at an alternative site and provide them after a request.	LAC 33:XI.509	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to meet the performance requirements when performing release detection required in LAC 33:XI.703.	LAC 33:XI.701	\$750 and completion of a department-sponsored compliance class	Per inspection
Failure to use a method or combination of methods of release detection described in LAC 33:XI.701 for all new or existing tank systems.	LAC 33:XI.703.A.1	\$1,500 and completion of a department-sponsored compliance class	Per inspection
Failure to satisfy the additional requirements for petroleum UST systems as specified.	LAC 33:XI.703.B	\$350 and completion of a department-sponsored compliance class	Per inspection
Failure to maintain release detection records.	LAC 33:XI.705	\$200 and completion of a department-sponsored compliance class	Per inspection

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to report any suspected release within 24 hours after becoming aware of the occurrence or when a leak detection method indicates that a release may have occurred.	LAC 33:XI.703.A.2 or 707	\$500 and completion of a department-sponsored compliance class	Per occurrence
Failure to investigate and confirm all suspected releases of regulated substances that require reporting under LAC 33:XI.707 within seven days.	LAC 33:XI.711	\$1,500	Per occurrence
Failure to maintain corrosion protection and/or release detection on a UST system that is temporarily closed and contains more than 2.5 cm (1 inch) of residue, or 0.3 percent by weight of the total capacity of the UST system.	LAC 33:XI.903.A	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to comply with permanent closure and/or changes in service procedures.	LAC 33:XI.905	\$500	Per inspection

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:

Mike D. McDaniel, Ph.D.  
Secretary

0603#031

**DECLARATION OF EMERGENCY**  
**Department of Environmental Quality**  
**Office of the Secretary**  
**Legal Affairs Division**

Extension of Compliance Deadlines for CAFO Permits  
(LAC 33:IX.2501, 2505, 2703, and 4903)(WQ066E)

In accordance with the emergency provision 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 the Environmental Protection Agency (EPA) rule postponing the permit authorization deadline dates for National Pollutant Discharge Elimination System (NPDES) concentrated animal feeding operations (CAFO).

The federal rule revises the EPA dates established in the 2003 CAFO rule, issued on February 12, 2003, by which facilities newly defined as CAFOs were required to seek permit coverage and by which all CAFOs were required to have nutrient management plans (NMPs) developed and implemented. The Environmental Protection Agency issued a final rule in the Federal Register, 71 FR 6978-6984 on February 10, 2006, implementing these changes. EPA extended the date by which operations defined as CAFOs as of April 14, 2003, who were not defined as CAFOs prior to that date, must seek National Pollutant Discharge

Elimination System (NPDES) permit coverage, from February 13, 2006 to July 31, 2007. EPA also amended the date by which operations that become defined as CAFOs after April 14, 2003, due to operational changes that would not have made them a CAFO prior to April 14, 2003, and that are not new sources, must seek NPDES permit coverage, from April 13, 2006 to July 31, 2007. Finally, EPA extended the deadline by which CAFOs are required to develop and implement NMPs, from December 31, 2006 to July 31, 2007. This Rule revises all references to the date currently in the 2003 CAFO rule by which NMPs must be developed and implemented. An Emergency Rule is necessary in order to comply with federal regulations that require the Louisiana Pollutant Discharge Elimination System (LPDES) program to be consistent with the EPA NPDES program. The department has begun rulemaking to promulgate these regulation changes.

This Emergency Rule is effective on February 24, 2006, 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 WQ066E you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at [www.deq.louisiana.gov](http://www.deq.louisiana.gov) under Rules and Regulations, and is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

### **Title 33**

## **ENVIRONMENTAL QUALITY**

### **Part IX. Water Quality**

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

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

##### **§2501. Application for a Permit**

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

j. for CAFOs that must seek coverage under a permit after July 31, 2007, certification that a nutrient management plan has been completed and will be implemented upon the date of permit coverage.

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

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2552 (November 2000), LR 26:2756 (December 2000), LR 27:45 (January 2001), LR 28:465 (March 2002), LR 28:1766 (August 2002), LR 29:1462 (August 2003), repromulgated LR 30:229 (February 2004), amended by the Office of Environmental Assessment, LR 30:2028 (September 2004), LR 31:425 (February 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2509 (October 2005), LR 32:

##### **§2505. Concentrated Animal Feeding Operations**

A. - G.1. ...

2. Operations Defined as CAFOs as of April 14, 2003, Which Were Not Defined as CAFOs Prior to That Date. For

all such CAFOs, the owner or operator of the CAFO must seek to obtain coverage under an LPDES permit by a date specified by the state administrative authority, but no later than July 31, 2007.

3.- 3.b. ...

c. if an operational change that makes the operation a CAFO would not have made it a CAFO prior to April 14, 2003, the operation has until July 31, 2007, or 90 days after becoming defined as a CAFO, whichever is later.

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

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

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

#### **Chapter 27. LPDES Permit Conditions** **§2703. Additional Conditions Applicable to Specified Categories of LPDES Permits**

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

A. - E. ...

1. Requirements to Develop and Implement a Nutrient Management Plan. At a minimum, a nutrient management plan must include best management practices and procedures necessary to implement applicable effluent limitations and standards. Permitted CAFOs must have their nutrient management plans developed and implemented by July 31, 2007. CAFOs that seek to obtain coverage under a permit after July 31, 2007, must have a nutrient management plan developed and implemented upon the date of permit coverage. The nutrient management plan must, to the extent applicable:

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

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

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

#### **Chapter 49. Incorporation by Reference** **§4903. 40 CFR Chapter I, Subchapter N**

A. 40 CFR Chapter I, Subchapter N, Effluent Guidelines and Standards, Parts 401 and 405-471, July 1, 2005, and amendments to 40 CFR 412.31 and 412.43 in 71 FR 6978-6984, February 10, 2006, are hereby incorporated by reference.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29:1467 (August 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752

(April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division LR 32:

Mike D. McDaniel, Ph.D.  
Secretary

0603#021

**DECLARATION OF EMERGENCY**

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

Financial Assurance Correction  
(LAC 33:XV.399)(RP042E)

In accordance with the emergency provision 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 correct a discrepancy in the radiation regulations regarding financial assurance amounts.

The appendix showing financial assurance arrangements is being updated to reflect the financial assurance amendments made in state rule activity RP039ft, finalized July 20, 2005, to mirror the federal regulations for financial assurance requirements. In this rulemaking the amounts of financial assurance required for decommissioning by licensees were increased to mirror the federal regulations.

The updates to the amounts in the appendix were overlooked in the rulemaking at that time. This oversight has been brought to the attention of the department and needs to be corrected in a timely manner to keep the financial assurance requirements consistent throughout the radiation regulations. The department has begun rulemaking to promulgate these amendments to correct the regulations.

This Emergency Rule is effective on February 20, 2006, 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 RP042E you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at [www.deq.louisiana.gov](http://www.deq.louisiana.gov) under Rules and Regulations, and is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471; 111 New Center Drive, Lafayette, LA 70508; 110 Baratavia Street, Lockport, LA 70374.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part XV. Radiation Protection**

**Chapter 3. Licensing of Radioactive Material**

**Subchapter Z. Appendices**

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

Schedule A. - Schedule B. ...

Appendix A			
Financial Assurance Arrangements			
Recommended Amounts for Mitigation, Liability, and Decommissioning			
By Title	Clean Up	Third Party &/or Off-Site Damages	Decommissioning
A. Licensees 1. Manufacturing & Distribution 2. Radiography 3. Gauges 4. Well Logging 5. Nuclear Medicine 6. Rad. Therp. 7. Acad. 8. R & D 9. Instru. Calib. 10. Irradiators 11. Ind. other than gauges 12. Consultants 13. General Lic. 14. Others not listed in category A	As determined by the chosen method	As determined by the chosen method	For Category A as a whole by quantity of material (Q): 1. $Q > 1010 \times \text{LAC } 33:\text{XV.399. Appendix D}$ , as sealed sources = \$113,000. 2. $(104 \times \text{LAC } 33:\text{XV.399. Appendix D}$ , unsealed sources) $\geq Q > (103 \times \text{LAC } 33:\text{XV.399. Appendix D}$ , unsealed sources), or 10-100 mCi source materials, dispersible form = \$225,000. 3. $(105 \times \text{LAC } 33:\text{XV.399. Appendix D}$ , unsealed sources) $\geq Q > (104 \times \text{LAC } 33:\text{XV.399. Appendix D}$ , unsealed sources) = \$1,125,000.
B. Low Quantity 1. In Vitro 2. Gas Chromatograph 3. Greater than or Equal to 100 x to 1000 x Exempt Quantity 4. Unsealed, discrete alpha emitters, 10µCi total 5. Check sources of sufficient quantity to require leak testing	As determined by the chosen method	As determined by the chosen method	NA for this category.

Appendix B. - Appendix F. ...

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

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

Mike D. McDaniel, Ph.D.  
Secretary

0603#001

## DECLARATION OF EMERGENCY

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

#### Laboratory Accreditation Exemption for Analyses of Target Volatile Organic Compounds (LAC 33:I.4719)(OS064E3)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allows the Department of Environmental Quality (Department) to use emergency procedures to establish rules, and of R.S. 30:2011, which allows the department to establish standards, guidelines, and criteria, to promulgate rules and regulations, and to issue compliance schedules, the secretary of the department hereby finds that imminent peril to the public welfare exists and accordingly adopts the following Emergency Rule.

This is a renewal of Emergency Rule OS064E2, which was effective on November 13, 2005, and published in the *Louisiana Register* on November 20, 2005

The department recently issued a number of Administrative Orders (AOs) to certain facilities requiring monitoring and testing of ozone precursors. The intent of the fence-line monitoring program in the AOs is to make the data generated similar to and comparable to the data generated in the EPA Photochemical Assessment Monitoring Stations (PAMS) program. This Emergency Rule establishes laboratory requirements outlined in the Technical Assistance Document for Sampling and Analysis of Ozone Precursors (TAD) as guidance to those responsible for implementing the PAMS program. Compliance with these AOs will drastically increase the number of samples collected and analyzed. The department relies on analytical data submitted both directly and indirectly to the department to determine compliance with state and federal regulations. As a result of deadlines established in current Louisiana regulations, the department is prohibited from accepting data from commercial laboratories that have not received departmental accreditation. A finding of imminent peril to public health, safety, and welfare is based on the insufficient number of accredited laboratories existing at this time that are capable of performing the volume of sample analyses within the time

frame required by the department. The department relies on analytical data to determine permit compliance, enforcement issues, and effectiveness of remediation of soils and groundwater. Permit issuance and compliance are effective means of determining the impact on human health and the environment. The department must have access to accurate, reliable, precise analytical data in order to meet its mandate to protect human health and the environment. This Emergency Rule will allow the department to accept data from laboratories that have supporting documentation showing the quality assurance and quality control program used to generate analytical data by the laboratory.

This Emergency Rule is effective on March 13, 2006, 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 OS064E3, you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at [www.deq.louisiana.gov](http://www.deq.louisiana.gov) under Rules and Regulations, and is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

### Title 33

## ENVIRONMENTAL QUALITY

### Part I. Office of the Secretary

#### Subpart 3. Laboratory Accreditation

#### Chapter 47. Program Requirements

#### §4719. Implementation

A. All commercial laboratories analyzing data as of the effective date of these regulations that are directly or indirectly submitting data to the department must submit an application for accreditation as required in LAC 33:I.4701.A.1, including the review fee, by July 1, 2000. The department shall not accept laboratory data generated by laboratories that do not comply with this deadline until such laboratories receive accreditation and fully comply with the requirements of this Section. Except as provided in Subsection E of this Section, the department shall not accept environmental data submitted to the department either directly or indirectly until the laboratory has applied for accreditation under these regulations.

B. All laboratories subject to these regulations must receive accreditation from the department, as provided in these regulations, undergo an on-site inspection as specified in LAC 33:I.4701.A.2, and successfully participate in proficiency evaluations as required in LAC 33:I.4701.A.3 by December 31, 2000, or as otherwise agreed to by the department and the applicant, not to exceed one year from December 31, 2000. Except as provided in Subsection E of this Section, the department shall not accept data generated by laboratories that do not comply with these deadlines until such laboratories receive accreditation and fully comply with the requirements of this Section.

C. - D. ...

E. The department shall accept, until December 31, 2007, analytical data generated by a laboratory that is not accredited under these regulations, provided that:

1. the laboratory has supporting documentation, and produces the documentation upon request by the department, showing the quality assurance and quality control programs used in generating analytical data by the laboratory and that the laboratory follows all requirements established by the Technical Assistance Document for Sampling and Analysis of Ozone Precursors, EPA 600-R-98/161 (TAD);

2. the laboratory is submitting analytical data pursuant to a departmental administrative order to a facility requiring monitoring and testing of ozone precursors; and

3. the laboratory is submitting analytical data for any of the target volatile organic compounds listed in Table 1 of this Section using the TAD, with modifications as specified below:

a. a reporting limit of at least 10 parts per billion (ppb) must be used;

b. any analytical result below the method detection limit (MDL) must be reported and flagged as an estimated value; and

c. any analytical result at the instrument detection limit (IDL) must be reported and flagged as an estimated value.

<b>Table 1</b>
<b>Target Volatile Organic Compounds</b>
Ethylene
Acetylene
Ethane
Propylene
Propane
Isobutane
1-butene
n-Butane
trans-2-Butene
cis-2-Butene
Isopentane (2-methylbutane)
1-Pentene
n-Pentane
Isoprene
trans-2-Pentene
cis-2-Pentene
2,2-dimethylbutane
Cyclopentane
2,3-dimethylbutane
2-methylpentane
3-methylpentane
1-Hexene
n-Hexane
Methylcyclopentane
2,4-dimethylpentane
Benzene
Cyclohexane
2-methylhexane
2,3-dimethylpentane
3-methylhexane
2,2,4-trimethylpentane
n-Heptane
Methylcyclohexane
2,3,4-trimethylpentane
Toluene
2-methylheptane
3-methylheptane
n-Octane
Ethylbenzene
m/p Xylene
Styrene
o-Xylene
1,3-butadiene

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), LR 29:312 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Mike D. McDaniel, Ph.D.  
Secretary

0603#032

## DECLARATION OF EMERGENCY

### Office of the Governor Board of Examiners of Certified Shorthand Reporters

Emergency Extension of Suspension Date for  
Renewal of Certificates (LAC 46:XXI.501)

Under the authority of R.S. 37:2554 and in accordance with R.S. 49:951 et seq., the Louisiana Board of Examiners of Certified Shorthand Reporters (CSR Board) advertises its intent to amend LAC 46:501, which sets out procedures governing the expiration and renewal of certificates.

The practice of shorthand reporting has been disrupted by the devastation and disorder resulting from Hurricanes Katrina and Rita. Large numbers of Louisiana residents, many of them certified court reporters, have been forced from their homes and regular places of work. This emergency enactment is necessary to allow those persons displaced by Hurricanes Katrina and Rita additional time in which to renew their certificates.

This Rule became effective on November 15, 2005, and is being reenacted on March 15, 2006 to continue these emergency provisions for an additional 120 days.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXI. Certified Shorthand Reporters

#### Chapter 5. Certificates

#### §501. Expiration of Certificates

A. All certificates shall be suspended as of 12 p.m. on June 30, 2006 if not renewed. To renew a certificate, the certificate holder shall, on or before the date on which the certificate would otherwise be suspended, pay the renewal fee established by the board. A suspension under this Section shall be effective until all delinquent fees have been paid in full.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:678 (October 1983), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 14:531 (August 1988), LR 19:1538 (December 1993), amended by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 32:

Judge Guy Holdridge  
Chair

0603#023

## DECLARATION OF EMERGENCY

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

Adult Dentures  
Restoration of Reimbursement Reduction  
(LAC 50:XXV.701)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XXV.701 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.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed the Governor's Executive Order KBB 05-82, authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced the reimbursement fees paid for dentures and denture repair services rendered to recipients who are age 21 years and older (*Louisiana Register*, Volume 31, Number 12).

Section 11 of Act 67 directed the department to restore the reductions in Medicaid reimbursement methodologies if the federal government increased some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006. The Deficit Reduction Act of 2005, signed into law by the president on February 8, 2006, increased the federal financial participation in the Medicaid Program. The department is subsequently proposing to repeal the January 1, 2006 Emergency Rule which reduced the reimbursement fees paid for dentures and denture repair services rendered to recipients who are age 21 years and older. This action is being taken to comply with the directive set forth in Section 11 of Act 67.

Effective for dates of service on or after March 4, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the January 1, 2006 Emergency Rule governing reimbursement for adult dentures.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XXV. Adult Dentures

#### Chapter 7. Reimbursement

#### §701. Fees

A. Fees for these services shall be reimbursed as established in the Adult Denture Program fee schedule.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:81 (January 2005), repromulgated LR 31:1589 (July 2005), amended LR 32:

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

0603#013

## DECLARATION OF EMERGENCY

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

Durable Medical Equipment  
Restoration of Reimbursement Reduction  
(LAC 50:XVII.133)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XVII.133 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.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed the Governor's Executive Order KBB 05-82, authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced the reimbursement rates paid for ambulatory equipment, bathroom equipment, hospital beds, mattresses and related equipment, specialized wheelchairs and for the cost of parts used in the repair of durable medical equipment (*Louisiana Register*, Volume 32, Number 1).

Section 11 of Act 67 directed the department to restore the reductions in Medicaid reimbursement methodologies if the federal government increased some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006. The Deficit Reduction Act of 2005, signed into law by the president on February 8, 2006, increased the federal financial participation in the Medicaid Program. The department is subsequently proposing to repeal the January 1, 2006 Emergency Rule which reduced the reimbursement rates paid for medical equipment and supplies. This action is being taken to comply with the directive set forth in Section 11 of Act 67.

Effective for dates of service on or after March 4, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the January 1, 2006 Emergency Rule governing reimbursement for durable medical equipment.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XVII. Durable Medical Equipment**  
**Subpart 1. General Provisions**

**Chapter 1. Standard Administrative Procedures**  
**Subchapter D. Reimbursement**

**§133. Reimbursement**

A. - B. ...

C. 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 31:86 (January 2005), amended LR 32:

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

0603#011

**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—Dental Services  
Restoration of Reimbursement Reduction  
(LAC 50:XV.6903)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.6903 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.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed the Governor's Executive Order KBB 05-82, authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced the reimbursement fees paid for dental services in the EPSDT Program (*Louisiana Register*, Volume 32, Number 1).

Section 11 of Act 67 directed the department to restore the reductions in Medicaid reimbursement methodologies if the federal government increased some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006. The Deficit Reduction Act of 2005, signed into law by the President on February 8, 2006, increased the federal financial participation in the Medicaid Program. The

department is subsequently proposing to repeal the January 1, 2006 Emergency Rule which reduced the reimbursement fees paid for dental services in the EPSDT Program. This action is being taken to comply with the directive set forth in Section 11 of Act 67.

Effective for dates of service on or after March 4, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the January 1, 2006 Emergency Rule governing reimbursement for dental services in 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 69. Dental Services**

**§6903. Reimbursement**

A. ...

B. 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 29:176 (February 2003), amended LR 30:252 (February 2004), LR 31:667 (March 2005), LR 32:

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

0603#009

**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—Durable Medical Equipment  
Restoration of Reimbursement Reduction  
(LAC 50:XV.8501 and 8703)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.8501 and 8703 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.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed the Governor's Executive Order KBB 05-82, authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations for designated

agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced the reimbursement rates paid for eyeglasses and hearing aids in the EPSDT Program (*Louisiana Register*, Volume 31, Number 12).

Section 11 of Act 67 directed the department to restore the reductions in Medicaid reimbursement methodologies if the federal government increased some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006. The Deficit Reduction Act of 2005, signed into law by the president on February 8, 2006, increased the federal financial participation in the Medicaid Program. The department is subsequently proposing to repeal the January 1, 2006 Emergency Rule which reduced the reimbursement rates paid for eyeglasses and hearing aids in the EPSDT Program. This action is being taken to comply with the directive set forth in Section 11 of Act 67.

Effective for dates of service on or after March 4, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the January 1, 2006 Emergency Rule governing reimbursement for durable medical equipment in 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 85. Durable Medical Equipment-Eyeglasses**

#### **§8501. Eye Care**

A. - B. ...

C. 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 29:180 (February 2003), amended LR 30:1211 (June 2004), LR 32:

#### **Chapter 87. Durable Medical Equipment-Hearing Devices**

#### **Subchapter A. Hearing Aids**

#### **§8703. Reimbursement**

A. - A.19. ...

B. 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 29:181 (February 2003), amended LR 32:

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

Interested persons may submit written comments to Jerry Phillips at the 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

0603#008

### **DECLARATION OF EMERGENCY**

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

Emergency Medical Transportation Program  
Emergency Ambulance Services  
Restoration of Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts 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.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed the Governor's Executive Order KBB 05-82, authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced the base rate for emergency ambulance transportation services (*Louisiana Register*, Volume 31, Number 12).

Section 11 of Act 67 directed the department to restore the reductions in Medicaid reimbursement methodologies if the federal government increased some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006. The Deficit Reduction Act of 2005, signed into law by the President on February 8, 2006, increased the federal financial participation in the Medicaid Program. The department is subsequently proposing to repeal the January 1, 2006 Emergency Rule which reduced the base rate for emergency ambulance transportation services. This action is being taken to comply with the directive set forth in Section 11 of Act 67.

#### **Emergency Rule**

Effective for dates of service on or after March 4, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the January 1, 2006 Emergency Rule which reduced the base rate for emergency ambulance services.

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

0603#010

## **DECLARATION OF EMERGENCY**

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

Emergency Medical Transportation Program  
Non-Emergency Ambulance Services  
Restoration of Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts 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.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed the Governor's Executive Order KBB 05-82, authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced the base rate for non-emergency ambulance services (*Louisiana Register*, Volume 31, Number 12).

Section 11 of Act 67 directed the department to restore the reductions in Medicaid reimbursement methodologies if the federal government increased some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006. The Deficit Reduction Act of 2005, signed into law by the president on February 8, 2006, increased the federal financial participation in the Medicaid Program. The department is subsequently proposing to repeal the January 1, 2006 Emergency Rule which reduced the base rate for non-emergency ambulance services. This action is being taken to comply with the directive set forth in Section 11 of Act 67.

### **Emergency Rule**

Effective for dates of service on or after March 4, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the January 1, 2006 Emergency Rule which reduced the base rate for non-emergency ambulance services.

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

responding to inquiries regarding this 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

0603#015

## **DECLARATION OF EMERGENCY**

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

Expanded Dental Services for Pregnant Women  
Restoration of Reimbursement Reduction  
(LAC 50:XV.16107)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.16107 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.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed the Governor's Executive Order KBB 05-82, authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced the reimbursement fees paid for dental services provided to Medicaid eligible pregnant women (*Louisiana Register*, Volume 32, Number 1).

Section 11 of Act 67 directed the department to restore the reductions in Medicaid reimbursement methodologies if the federal government increased some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006. The Deficit Reduction Act of 2005, signed into law by the president on February 8, 2006, increased the federal financial participation in the Medicaid Program. The department is subsequently proposing to repeal the January 1, 2006 Emergency Rule which reduced the reimbursement fees paid for dental services provided to Medicaid eligible pregnant women. This action is being taken to comply with the directive set forth in Section 11 of Act 67.

Effective for dates of service on or after March 4, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the January 1, 2006 Emergency Rule governing reimbursement for dental services provided to Medicaid eligible pregnant women.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XV. Services for Special Populations**  
**Subpart 13. Pregnant Women Extended Services**  
**Chapter 161. Dental Services**  
**§16107. Reimbursement**

A. Reimbursement for these services is a flat fee based on the fee schedule established by the Bureau for the Early and Periodic Screening, Diagnosis and Treatment Program minus the amount which any third party coverage would pay.

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 30:434 (March 2004), amended LR 32:

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

0603#007

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

Hemodialysis Centers—Restoration of Reimbursement  
Reduction (LAC 50:XI.6901)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XI.6901 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.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed the Governor's Executive Order KBB 05-82, authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced the reimbursement rates paid for co-insurance and deductibles for Medicare Part B claims for hemodialysis services (*Louisiana Register*, Volume 31, Number 12).

Section 11 of Act 67 directed the department to restore the reductions in Medicaid reimbursement methodologies if the federal government increased some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006.

The Deficit Reduction Act of 2005, signed into law by the president on February 8, 2006, increased the federal financial participation in the Medicaid Program. The department is subsequently proposing to repeal the January 1, 2006 Emergency Rule which reduced the reimbursement rates paid for co-insurance and deductibles for Medicare Part B claims for hemodialysis services. This action is being taken to comply with the directive set forth in Section 11 of Act 67.

Effective for dates of service on or after March 4, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the January 1, 2006 Emergency Rule governing reimbursement for hemodialysis services.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XI. Clinic Services**  
**Subpart 9. Hemodialysis Centers**  
**Chapter 69. Reimbursement**  
**§6901. Medicare Part B Claims**

A. - B. ...  
C. 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 30:1022 (May 2004), amended LR 32:

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

0603#006

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

Home Health Services—Restoration of Reimbursement  
Reduction (LAC 50:XIX.707)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XIX.701 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.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed the Governor's Executive Order KBB 05-82, authorized and directed the commissioner of administration to reduce the

State General Fund (direct) appropriations for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced the reimbursement rates paid to home health agencies for nursing services provided by licensed registered nurses, licensed practical nurses and home health aides (*Louisiana Register*, Volume 31, Number 12).

Section 11 of Act 67 directed the department to restore the reductions in Medicaid reimbursement methodologies if the federal government increased some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006. The Deficit Reduction Act of 2005, signed into law by the President on February 8, 2006, increased the federal financial participation in the Medicaid Program. The department is subsequently proposing to repeal the January 1, 2006 Emergency Rule which reduced the reimbursement rates paid to home health agencies for nursing services provided by licensed registered nurses, licensed practical nurses and home health aides. This action is being taken to comply with the directive set forth in Section 11 of Act 67.

Effective for dates of service on or after March 4, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the January 1, 2006 Emergency Rule governing reimbursement for home health services.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XIX. Other Services**

##### **Subpart 1. Home Health**

#### **Chapter 7. Reimbursement Methodology**

##### **§707. Nursing 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 32:

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

0603#005

### **DECLARATION OF EMERGENCY**

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

Hospice—Restoration of Reimbursement Reduction  
(LAC 50:XV.4301)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends

LAC 50:XV.4301 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.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed the Governor's Executive Order KBB 05-82, authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced the reimbursement rates paid for hospice services (*Louisiana Register*, Volume 31, Number 12).

Section 11 of Act 67 directed the department to restore the reductions in Medicaid reimbursement methodologies if the federal government increased some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006. The Deficit Reduction Act of 2005, signed into law by the president on February 8, 2006, increased the federal financial participation in the Medicaid Program. The department is subsequently proposing to repeal the January 1, 2006 Emergency Rule which reduced the reimbursement rates paid for hospice services. This action is being taken to comply with the directive set forth in Section 11 of Act 67.

Effective for dates of service on or after March 4, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the January 1, 2006 Emergency Rule governing reimbursement for hospice services.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

##### **Subpart 3. Hospice**

#### **Chapter 43. Reimbursement**

##### **§4301. General**

A. ...

B. 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 28:1470 (June 2002), amended LR 32:

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

0603#004

## DECLARATION OF EMERGENCY

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

Inpatient Hospitals—Private Hospitals  
Restoration of Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts 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.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed the Governor's Executive Order KBB 05-82, authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced the reimbursement rates paid for inpatient services rendered in private (nonstate) acute hospitals, including rehabilitation hospitals, long term hospitals, and distinct part psychiatric units (*Louisiana Register*, Volume 32, Number 1).

Section 11 of Act 67 directed the department to restore the reductions in Medicaid reimbursement methodologies if the federal government increased some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006. The Deficit Reduction Act of 2005, signed into law by the president on February 8, 2006, increased the federal financial participation in the Medicaid Program. The department is subsequently proposing to repeal the January 1, 2006 Emergency Rule which reduced the reimbursement rates paid for inpatient services rendered in private (nonstate) acute hospitals, including rehabilitation hospitals, long term hospitals, and distinct part psychiatric units. This action is being taken to comply with the directive set forth in Section 11 of Act 67.

#### Emergency Rule

Effective for dates of service on or after March 4, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the January 1, 2006 Emergency Rule reducing the reimbursement rates paid for inpatient services rendered in private (nonstate) acute hospitals, including rehabilitation hospitals, long term hospitals, and distinct part psychiatric units.

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

0603#064

## DECLARATION OF EMERGENCY

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

Inpatient Hospitals—Private Psychiatric Hospital  
Restoration of Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts 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.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed the Governor's Executive Order KBB 05-82, authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced the reimbursement rates paid for inpatient psychiatric services rendered in private free-standing psychiatric hospitals (*Louisiana Register*, Volume 32, Number 1).

Section 11 of Act 67 directed the department to restore the reductions in Medicaid reimbursement methodologies if the federal government increased some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006. The Deficit Reduction Act of 2005, signed into law by the president on February 8, 2006, increased the federal financial participation in the Medicaid Program. The department is subsequently proposing to repeal the January 1, 2006 Emergency Rule which reduced the reimbursement rates paid for inpatient psychiatric services rendered in private free-standing psychiatric hospitals. This action is being taken to comply with the directive set forth in Section 11 of Act 67.

#### Emergency Rule

Effective for dates of service on or after March 4, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the January 1, 2006 Emergency Rule which reduced the reimbursement rates paid for inpatient psychiatric services rendered in private free-standing psychiatric hospitals.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box

91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this 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

0603#065

## **DECLARATION OF EMERGENCY**

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

Intermediate Care Facilities for the  
Mentally Retarded—Private Facilities  
Restoration of Reimbursement Reduction  
(LAC 50:VII.32903)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:VII.32903 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.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed the Governor's Executive Order KBB 05-82, authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced the Medicaid rates paid to private intermediate care facilities for the mentally retarded (*Louisiana Register*, Volume 32, Number 1).

Section 11 of Act 67 directed the department to restore the reductions in Medicaid reimbursement methodologies if the federal government increased some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006. The Deficit Reduction Act of 2005, signed into law by the president on February 8, 2006, increased the federal financial participation in the Medicaid Program. The department is subsequently proposing to repeal the January 1, 2006 Emergency Rule which reduced the Medicaid rates paid to private intermediate care facilities for the mentally retarded. This action is being taken to comply with the directive set forth in Section 11 of Act 67.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part VII. Long Term Care**

#### **Subpart 3. Intermediate Care Facilities for the Mentally Retarded**

#### **Chapter 329. Reimbursement**

#### **Subchapter A. Reimbursement Methodology**

#### **§32903. Rate Determination**

A. - H.2. ...

I. Repealed.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1592 (July 2005), repromulgated LR 31:2253 (September 2005), amended LR 32:

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

0603#061

## **DECLARATION OF EMERGENCY**

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

Laboratory and X-Ray  
Restoration of Reimbursement Reduction  
(LAC 50:XIX.4329 and 4335)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XIX.4329 and 4335 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.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed the Governor's Executive Order KBB 05-82, authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced the reimbursement rates paid for laboratory and x-ray services provided by physicians and independent laboratories (*Louisiana Register*, Volume 31, Number 12).

Section 11 of Act 67 directed the department to restore the reductions in Medicaid reimbursement methodologies if the federal government increased some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006. The Deficit Reduction Act of 2005, signed into law by the president on February 8, 2006, increased the federal financial participation in the Medicaid Program. The department is subsequently proposing to repeal the January 1, 2006 Emergency Rule which reduced the reimbursement paid for laboratory and x-ray services provided by physicians and independent laboratories. This action is being taken to comply with the directive set forth in Section 11 of Act 67.

Effective for dates of service on or after March 4, 2006, the Department of Health and Hospitals, Office of the

Secretary, Bureau of Health Services Financing repeals the January 1, 2006 Emergency Rule governing reimbursement for laboratory and x-ray services.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XIX. Other Services**

#### **Subpart 3. Laboratory and X-Ray**

### **Chapter 43. Billing and Reimbursement**

#### **Subchapter B. Reimbursement**

#### **§4329. Physicians and Independent Laboratories**

A. - B. ...

C. 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 28:1025 (May 2002), amended LR 32:

#### **§4335. X-Ray Portage**

A. ...

B. 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 30:1026 (May 2004), amended LR 32:

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

0603#003

### **DECLARATION OF EMERGENCY**

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

Louisiana Hurricane Relief Waiver  
Uncompensated Care Costs Pool  
(LAC 50:XXII.Chapters 41-53)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XXII.Chapters 41-53 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing requested and received approval from the Centers for Medicare and Medicaid Services (CMS) to implement a multi-state 1115 demonstration waiver to ensure the continuity of health care services for individuals displaced as a result of Hurricanes Katrina and Rita. Under the demonstration waiver, Louisiana will provide services through its Medicaid Program to evacuees who qualify as members of the demonstration

population consisting of parents, pregnant women, children under age 19, individuals with disabilities, low income Medicare beneficiaries, and individuals in need of long term care whose income is within the levels listed on the simplified eligibility chart.

In addition, CMS approved the establishment of a fund, the Uncompensated Care Costs (UCC) Pool, to reimburse health care providers that incur uncompensated care costs for medically necessary services and supplies rendered to evacuees and other affected individuals who do not have coverage through insurance or other options, including Title XIX and Title XXI of the Social Security Act. The bureau proposes to promulgate the following Emergency Rule to adopt the provisions governing the administration of the UCC pool.

This action is being taken to protect the health and welfare of uninsured individuals who were displaced from their homes by Hurricanes Katrina or Rita and subsequently required medical services and/or supplies. It is estimated that implementation of this Emergency Rule will be cost neutral for state fiscal year 2005-2006.

Effective March 13, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the following provisions governing the Uncompensated Care Costs Pool under the Louisiana Hurricane Relief Waiver.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XXII. 1115 Demonstration Waivers**

#### **Subpart 5. Louisiana Hurricane Relief Waiver**

### **Chapter 41. General Provisions**

#### **§4101. Purpose**

A. As a result of the devastation caused by Hurricanes Katrina and Rita, many Louisiana health care providers have incurred costs in furnishing medical services and supplies to hurricane evacuees and other affected individuals who do not have health care coverage through insurance or any other financial mechanism. The purpose of the Uncompensated Care Costs (UCC) Pool is to provide reimbursement to health care providers through federal financial participation for services rendered for which there is no other source of payment.

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 32:

### **Chapter 43. Eligible Populations**

#### **§4301. Definitions**

*Affected Individual*—an individual who resided in a designated individual assistance county or parish pursuant to Section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as declared by the President as a result of Hurricanes Katrina and Rita, and continues to reside in the same state where such county or parish is located.

*Evacuee*—an affected individual who has been displaced to another state.

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 32:

### **§4303. Eligibility Requirements**

A. In order to qualify as a member of the eligible population, an individual must be either a United States citizen or a legal alien who resided in a designated individual assistance county or parish for Hurricane Katrina or Hurricane Rita as declared by the President.

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 32:

### **Chapter 45. Covered Services**

#### **§4501. Medicaid State Plan Services**

A. Reimbursement is available through the UCC pool for the following services covered under the Louisiana Medicaid State Plan:

1. inpatient and outpatient hospital services, including ancillary services;
2. physician services (inpatient and outpatient);
3. mental health clinic services;
4. inpatient psychiatric services (free-standing psychiatric hospitals and distinct part psychiatric units);
5. emergency ambulance services;
6. home health services;
  - a. coverage of durable medical equipment and supplies is limited to emergency items;
7. nursing facility services;
8. pharmacy services;
9. laboratory services;
10. x-ray services;
11. hemodialysis services;
12. hospice services;
13. rural health clinic services; and
14. federally qualified health clinic look-alike facilities, excluding such facilities receiving grant funding under Section 330 of the Public Health Service Act.

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 32:

#### **§4503. Non-Medicaid State Plan Services**

A. Reimbursement is available through the UCC pool for methadone and suboxone substance abuse treatments only to the extent that these services are not otherwise reimbursable under other funding sources including, but not limited to, grant or reimbursement programs offered through:

1. the Federal Emergency Management Agency;
2. the Substance Abuse and Mental Health Services Administration;
3. the National Institutes of Health; or
4. any other federal or state program (Medicaid, SCHIP, Medicare), private insurance or any private source.

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 32:

### **Chapter 47. Provider Participation**

#### **§4701. Participation Requirements**

A. In order to qualify for reimbursement through the UCC pool for Medicaid State Plan covered services, the provider must have been enrolled to participate in the Louisiana Medicaid Program on or before August 24, 2005.

B. In order to qualify for reimbursement through the UCC pool for methadone and suboxone substance abuse treatments, the provider must be approved by the Office of Addictive Disorders.

C. Qualifying providers may be either a public or a private 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 32:

### **Chapter 49. Requests for Payment**

#### **§4901. Submission Requirements**

A. Requests for payment must be "person specific" for each Hurricane Katrina or Rita evacuee or other affected individual. The request must contain the following data, if known, for the evacuee or other affected individual:

1. last name;
2. first name;
3. middle initial;
4. social security number;
5. date of birth;
6. residential address the week prior to Hurricane Katrina or Hurricane Rita;
7. parish of residence the week prior to Hurricane Katrina or Hurricane Rita;
8. date(s) of service; and
9. any other identifying data that would assist in establishing the recipient's identity in the absence of any of the items cited in Paragraphs 1-8 above.

B. Providers may submit requests for payment of costs incurred during the following time periods:

1. dates of service from August 24, 2005 through January 31, 2006 for Hurricane Katrina; and
2. dates of service from September 23, 2005 through January 31, 2006 for Hurricane Rita.

C. Providers shall be required to sign an attestation that confirms that:

1. the services provided were medically necessary;
2. they have not received payment from any other source;
3. they will not subsequently bill another source for payment;
4. they are not aware of any other payment source for the services rendered; and
5. payment will be accepted as payment in full for the services rendered.

D. The deadline for submission of all payment requests is June 30, 2006.

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 32:

### **Chapter 51. Uncompensated Care Pool Reimbursement**

#### **§5101. Allowable Payment**

A. Reimbursement through the UCC pool is only available for covered services provided within the state of Louisiana to individuals who meet the requirements to be a member of the eligible population.

B. Payment through the UCC pool for Medicaid State Plan services shall be an interim payment up to 70 percent of



the Medicaid fee-for-service rate currently on file for the respective service. Additional payments shall be contingent on the availability of funds in the UCC pool.

1. UCC pool payments to hospitals that qualify for Medicaid disproportionate share hospital (DSH) payments will be offset from the cost of treating uninsured patients for the state fiscal year to which the DSH payment is applicable to determine the hospital specific DSH limits.

C. Payment through the UCC pool for methadone and suboxone substance abuse treatment services shall be an interim payment up to 70 percent of the fee schedule established by the Office of Addictive Disorders. Additional payments shall be contingent on the availability of funds in the UCC pool.

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 32:

### **Chapter 53. Administrative Appeals**

#### **§5301. Fair Hearings and Appeals**

A. There are no provisions under this demonstration waiver for fair hearings for those individuals who have received medical services or supplies and do not have insurance coverage or any other source of payment.

B. There are no provisions under this demonstration waiver for appeals for health care providers who have incurred costs associated with the provision of the uncompensated 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 32:

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

Interested persons may submit written comments to Jerry Phillips, 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

0603#066

### **DECLARATION OF EMERGENCY**

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

Mental Health Rehabilitation Services  
Restoration of Reimbursement Reduction  
(LAC 50:XV.901)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends

LAC 50:XV.901 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.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed the Governor's Executive Order KBB 05-82, authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced the established reimbursement rates for mental health rehabilitation services (*Louisiana Register*, Volume 31, Number 12).

Section 11 of Act 67 directed the department to restore the reductions in Medicaid reimbursement methodologies if the federal government increased some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006. The Deficit Reduction Act of 2005, signed into law by the president on February 8, 2006, increased the federal financial participation in the Medicaid Program. The department is subsequently proposing to repeal the January 1, 2006 Emergency Rule which reduced the established reimbursement rates for mental health rehabilitation services. This action is being taken to comply with the directive set forth in Section 11 of Act 67.

Effective for dates of service on or after March 4, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the January 1, 2006 Emergency Rule governing reimbursement for mental health rehabilitation services.

### **Title 50**

#### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

##### **Part XV. Services for Special Populations**

##### **Subpart 1. Mental Health Rehabilitation**

#### **Chapter 9. Reimbursement**

#### **§901. Reimbursement Methodology**

A. - B. ...

C. 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 31:1091 (May 2005), amended LR 32:

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

0603#002



## DECLARATION OF EMERGENCY

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

Outpatient Hospitals—Private Hospitals  
Restoration of Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts 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.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed the Governor's Executive Order KBB 05-82, authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced the reimbursement rates paid for outpatient services rendered in private (nonstate) acute hospitals and out-of-state hospitals (*Louisiana Register*, Volume 32, Number 1).

Section 11 of Act 67 directed the department to restore the reductions in Medicaid reimbursement methodologies if the federal government increased some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006. The Deficit Reduction Act of 2005, signed into law by the president on February 8, 2006, increased the federal financial participation in the Medicaid Program. The department is subsequently proposing to repeal the January 1, 2006 Emergency Rule which reduced the reimbursement rates paid for outpatient services rendered in private (nonstate) acute hospitals and out-of-state hospitals. This action is being taken to comply with the directive set forth in Section 11 of Act 67.

### Emergency Rule

Effective for dates of service on or after March 4, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the January 1, 2006 Emergency Rule reducing the reimbursement rates paid for laboratory services, rehabilitation services, surgical services, clinic services and cost based services rendered in private (nonstate) acute hospitals and out-of-state hospitals.

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

0603#060

## DECLARATION OF EMERGENCY

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

Private Nursing Facilities  
Restoration of Reimbursement Reduction  
(LAC 50:VII.1305)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:VII.1305 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.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed the Governor's Executive Order KBB 05-82, authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced Medicaid prospective per diem rates for private nursing facilities (*Louisiana Register*, Volume 32, Number 1).

Section 11 of Act 67 directed the department to restore the reductions in Medicaid reimbursement methodologies if the federal government increased some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006. The Deficit Reduction Act of 2005, signed into law by the president on February 8, 2006, increased the federal financial participation in the Medicaid Program. The department is subsequently proposing to repeal the January 1, 2006 Emergency Rule which reduced Medicaid prospective per diem rates for private nursing facilities. This action is being taken to comply with the directive set forth in Section 11 of Act 67.

### Title 50

## PUBLIC HEALTH—MEDICAL ASSISTANCE

### Part VII. Long Term Care Services

#### Subpart 1. Nursing Facilities

### Chapter 13. Reimbursement

#### §1305. Rate Determination

A. - D.5. ...

E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:467 (June 1984), repealed and promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1474 (June 2002), repromulgated LR 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box

91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this 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

0603#062

## **DECLARATION OF EMERGENCY**

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

Professional Services Program  
Anesthesia Services  
Restoration of Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts 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.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed the Governor's Executive Order KBB 05-82, authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced the fee amounts as well as the formula calculations used to determine the reimbursement rates paid to certified registered nurse anesthetists (CRNA's) for anesthesia services provided to Medicaid recipients (*Louisiana Register*, Volume 32, Number 1).

Section 11 of Act 67 directed the department to restore the reductions in Medicaid reimbursement methodologies if the federal government increased some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006. The Deficit Reduction Act of 2005, signed into law by the president on February 8, 2006, increased the federal financial participation in the Medicaid Program. The department is subsequently proposing to repeal the January 1, 2006 Emergency Rule which reduced the reimbursement rates paid to certified registered nurse anesthetists (CRNA's) for anesthesia services provided to Medicaid recipients. This action is being taken to comply with the directive set forth in Section 11 of Act 67.

#### **Emergency Rule**

Effective for dates of service on or after March 4, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the January 20, 2006 Emergency Rule which reduced the reimbursement amount paid to certified registered nurse anesthetists for anesthesia services provided to Medicaid recipients.

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

0603#012

## **DECLARATION OF EMERGENCY**

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

Professional Services Program  
Physician Services  
Restoration of Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts 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 Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed the Governor's Executive Order KBB 05-82, authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced the reimbursement rates paid for physician services (*Louisiana Register*, Volume 31, Number 12).

Section 11 of Act 67 directed the department to restore the deductions in Medicaid reimbursement methodologies if the federal government increased some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006. The Deficit Reduction Act of 2005, signed into law by the President on February 8, 2006, increased the federal financial participation in the Medicaid Program. The department is subsequently proposing to repeal the January 1, 2006 Emergency Rule which reduced the reimbursement rates paid for physician services. This action is being taken to comply with the directive set forth in Section 11 of Act 67.

#### **Emergency Rule**

Effective for dates of service on or after March 4, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the January 1, 2006 Emergency Rule which reduced the reimbursement rates paid for physician services.

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

responding to inquiries regarding this 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

0603#016

## DECLARATION OF EMERGENCY

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

#### Professional Services Program Physician Services—Supplemental Payment

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the 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 Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses professional services in accordance with an established fee schedule for Physicians' Current Procedural Terminology (CPT) codes, locally assigned codes and Healthcare Common Procedure Code System. Reimbursement for these services is a flat fee established by the bureau less the amount which any third party coverage would pay. The bureau promulgated an Emergency Rule to provide a supplemental payment for services provided by physicians or other eligible professional service practitioners in qualifying essential state-owned or operated physician practice plans organized by or under the control of a state academic health system or other state entity (*Louisiana Register*, Volume 31, Number 4). The supplemental payment will bring the Medicaid rate for services provided by these physicians/practitioners up to the rate paid by commercial insurers for the same service. To qualify for this supplemental payment, the practice plans must have entered into an agreement to provide the community rate data necessary for satisfactorily calculating the supplemental payments to Medicaid on an annual basis. This Emergency Rule is being promulgated to continue provisions contained in the April 1, 2005 Rule. This action is being taken to enhance federal revenue.

#### Emergency Rule

Effective for dates of service on or after March 29, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will provide supplemental Medicaid payments for qualifying essential state-owned or operated physician practice plans organized by or under the control of a state academic health system or other state entity.

A. In order to qualify to receive supplemental payments, physicians and other eligible professional service practitioners must be:

1. licensed by the state of Louisiana;

2. enrolled as a Louisiana Medicaid provider; and
3. employed by a state-owned or operated entity, such as a state-operated hospital or other state entity, including a state academic health system, which:

- a. has been designated by the bureau as an essential provider; and

- b. has furnished satisfactory data to DHH regarding the commercial insurance payments made to its employed physicians and other professional service practitioners.

B. The supplemental payment to each qualifying physician or other eligible professional services practitioner in the practice plan will equal the difference between the Medicaid payments otherwise made to these qualifying providers for professional services and the average amount that would have been paid at the equivalent community rate. The community rate is defined as the average amount that would have been paid by commercial insurers for the same services.

C. The supplemental payments shall be calculated by applying a conversion factor to actual charges for claims paid during a quarter for Medicaid services provided by the state-owned or operated practice plan providers. The commercial payments and respective charges shall be obtained for the state fiscal year preceding the reimbursement year. If this data is not provided satisfactorily to DHH, the default conversion factor shall equal "1". This conversion factor shall be established annually for qualifying physicians/practitioners by:

1. determining the amount that private commercial insurance companies paid for commercial claims submitted by the state-owned or operated practice plan or entity; and

2. dividing that amount by the respective charges for these payers.

D. The actual charges for paid Medicaid services shall be multiplied by the conversion factor to determine the maximum allowable Medicaid reimbursement. For eligible nonphysician practitioners, the maximum allowable Medicaid reimbursement shall be limited to 80 percent of this amount.

E. The actual base Medicaid payments to the qualifying physicians/practitioners employed by a state-owned or operated entity shall then be subtracted from the maximum Medicaid reimbursable amount to determine the supplemental payment amount.

F. The supplemental payment for services provided by the qualifying state-owned or operated physician practice plan will be implemented through a quarterly supplemental payment to providers, based on specific Medicaid paid claim data.

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

Interested persons may submit written comments to Jerry Phillips, 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

0603#063

## DECLARATION OF EMERGENCY

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

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing 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. 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.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed the Governor's Executive Order KBB 05-82, authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced the reimbursement rate for targeted case management services provided to the following targeted populations: Nurse Family Partnership, Infants and Toddlers, HIV Disabled, MR/DD and EPSDT Targeted Population (*Louisiana Register*, Volume 32, Number 1).

Section 11 of Act 67 directed the department to restore the reductions in Medicaid reimbursement methodologies if the federal government increased some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006. The Deficit Reduction Act of 2005, signed into law by the president on February 8, 2006, increased the federal financial participation in the Medicaid Program. The department is subsequently proposing to repeal the January 1, 2006 Emergency Rule which reduced the reimbursement rate for targeted case management services provided to certain targeted populations. This action is being taken to comply with the directive set forth in Section 11 of Act 67.

Effective for dates of service on or after March 4, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the January 1, 2006 Emergency Rule governing reimbursement for targeted case management services.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XV. Services for Special Populations

#### Subpart 7. Targeted Case Management

#### Chapter 107. Reimbursement

#### §10701. Reimbursement

A. - C. ...

D. 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 30:1040 (May 2004), amended LR 31:2032 (August 2005), LR 32:

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

0603#014

## DECLARATION OF EMERGENCY

### Department of Social Services Office of Family Support

Food Stamp/FITAP/KCSP—Interest Income  
Exclusion and Student Status Changes  
(LAC 67:III.1229, 1935, 1937, 1979, 1980, and 5329)

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 2, Subpart 3, and Subpart 13 effective March 01, 2006. This Rule shall remain in effect for a period of 120 days.

Pursuant to the authority granted to the department by Louisiana's Temporary Assistance to Needy Families Block Grant, the agency will amend §1229 in the Family Independence Temporary Assistance Program (FITAP) and §5329 in the Kinship Care Subsidy Program to exclude interest and dividends from countable income with the exception of dividends received from a resource-exempt trust fund. Pursuant to P.L. 107-171, The Food Stamp Reauthorization Act of 2002 (also known as the Farm Bill), the agency will amend §1980 in the Food Stamp Program to exclude education assistance received by any household member and the interest and dividend income specified above from countable income. Section 4107 of the Farm Bill gives the state the option to exclude certain types of income that the state agency does not include for TANF purposes. Technical changes are being made to combine and amend §§1935 and 1937 to clarify student eligibility requirements and to change the obsolete term Job Training Partnership Act to Workforce Investment Act in §1979.

Emergency action in this matter is necessary as thousands of Louisiana citizens have suffered extensive damage to their home and/or business property due to Hurricanes Katrina and Rita and have incurred enormous expense. Many will receive insurance settlements that may be invested until property repairs can be completed. The interest or dividend income from these settlements may adversely impact household eligibility for FITAP, KCSP, or Food Stamp benefits, thereby creating imminent peril to public health and welfare. Therefore, it is the agency's intention to remove this barrier to FITAP, KCSP, and Food Stamp eligibility and benefits and exclude these payments from countable income.

**Title 67**  
**SOCIAL SERVICES**  
**Part III. Family Support**  
**Subpart 2. Family Independence Temporary Assistance Program**  
**Chapter 12. Application, Eligibility, and Furnishing Assistance**

**Subchapter B. Conditions of Eligibility**

**§1229. Income**

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

1. - 18. ...
19. loans
20. - 29. ...
30. effective March 1, 2006, interest income,
31. effective March 1, 2006, dividend income.

Exception: Dividends received from a resource-exempt trust fund will not be excluded as income.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S.36:474, R.S. 46:231.1.B., R.S. 46:231.2, P.L. 108-447, P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:1342 (June 2000), LR 26:2831 (December 2000) LR 31:2956 (November 2005), LR 32:

**Subpart 3. Food Stamps**

**Chapter 19. Certification of Eligible Households**

**Subchapter E. Students**

**§1935. Student Provisions (Effective March 1, 2006)**

A. An individual enrolled at least half-time (as defined by the institution) in an institution of higher education is considered a student. A student is ineligible to receive Food Stamp benefits unless the individual meets at least one of the following conditions:

1. under age 18 or over age 49;
2. physically or mentally unfit;
3. receiving FITAP benefits;
4. employed an average of at least 20 hours per week, and be paid for such employment, or if self-employed, employed for an average of at least 20 hours per week and receives weekly earnings at least equal to the federal minimum hourly wage multiplied by 20 hours;
5. participating in a state or federally financed work-study program during the regular school year;
6. participating in an on-the-job training program;
7. responsible for, and physically providing, the care of a dependent household member who is:
  - a. under age 6, or
  - b. age 6 or over but under age 12 and adequate child care is not available;
8. is a single parent who is a full-time student (as defined by the institution) and who is responsible for, and physically providing, the care of a dependent child under age 12, regardless of the availability of adequate child care;
9. assigned to or placed in an institution of higher education through:

- a. the work program under Title IV of the Social Security Act, which is the Strategies to Empower People (STEP) Program;

- b. the Workforce Investment Act of 1998;

- c. a Food Stamp employment and training program (LaJET);
- d. a program under section 236 of the Trade Act of 1974, or;
- e. a state or local government employment and training program, as determined appropriate by FNS.

B. An institution of higher education is a:

1. business, technical, trade, or vocational school that normally requires a high school diploma or equivalency certificate (GED) for enrollment in the curriculum, or
2. college or university that offers degree programs regardless of whether a high school diploma or equivalency certificate (GED) is required.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security LR 9:131 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 24:1783 (September 1998), LR 32:

**§1937. Student Related Provisions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security LR 12:756 (November 1986), amended LR 13:91 (February 1987), amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 19:885 (July 1993), LR 19:1436 (November 1993), repealed LR 32:

**Subchapter I. Income and Deductions**

**§1979. Income**

A. Earnings to individuals who are participating in on-the-job training programs under the Workforce Investment Act (formerly the Job Training Partnership Act) shall be counted as income. This provision does not apply to household members under 19 years of age who are under the parental control of another adult member.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.9, P. L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:657 (November 1987), amended by the Department of Social Services, Office of Family Support, LR 32:

**§1980. Income Exclusions**

A. In addition to those income exclusions previously adopted and codified in Chapter 19, Certification of Eligible Households, the following income types will be excluded from countable income for the Food Stamp Program:

1. - 22. ...
  23. loans;
  24. - 39.b. ...
  40. effective March 1, 2006, dividend income.
- Exception: Dividends received from a resource-exempt trust fund will not be excluded as income;
41. effective March 1, 2006, interest income;
  42. effective March 1, 2006, education assistance.

AUTHORITY NOTE: Promulgated in accordance with P.L. 103-66, 7 CFR 273.9(c)(11), P.L. 104-193, P.L. 107-171, P.L. 108-447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 21:188 (February 1995), amended LR 23:82 (January 1997), LR 29:607 (April 2003), LR 31:2956 (November 2005), LR 32:

**Subpart 13. Kinship Care Subsidy Program**  
**Chapter 53. Application, Eligibility, and Furnishing Assistance**

**Subchapter B. Conditions of Eligibility**

**§5329. Income**

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

1. - 18. ...
19. loans,
20. - 28. ...
29. effective March 1, 2006, interest income,
30. effective March 1, 2006, dividend income.

Exception: Dividends received from a resource-exempt trust fund will not be excluded as income.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, P.L. 108-447, P. L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), amended LR 26:2832 (December 2000), LR 31:2958 (November 2005), LR 32:

Ann Silverberg Williamson  
Secretary

0603#024

**DECLARATION OF EMERGENCY**

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

**Oyster Season Closure—Bay Gardene  
Public Oyster Seed Reservation**

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and R.S. 49:967(D), and under the authority of R.S. 56:433(B)1 which provides that the Wildlife and Fisheries Commission may designate what parts or portions of the natural reefs may be fished for oysters and it may suspend the fishing of oysters altogether from natural reefs not leased by it when such reefs are threatened with depletion as determined by the department, and a Resolution adopted by the Wildlife and Fisheries Commission on August 4, 2005 which authorized the Secretary of the Department of Wildlife and Fisheries to take emergency action as necessary to close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of non-living reef material in seed oyster loads, or if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered, the Secretary hereby declares:

The oyster season in that portion of the Bay Gardene Public Oyster Seed Reservation beginning at the western end of Bayou Lost at 29 degrees 36 minutes 03.9 seconds north latitude and 89 degrees 37 minutes 49.9 seconds west longitude; thence in an easterly direction along the northern shoreline of Bayou Lost to a point on the western shoreline

of Black Bay at 29 degrees 36 minutes 00.8 seconds north latitude and 89 degrees 36 minutes 58.7 seconds west longitude; thence southeasterly to the eastern most point of an island on the western shoreline of Black Bay at latitude 29 degrees 35 minutes 49.2 seconds north latitude and 89 degrees 36 minutes 30.7 seconds west longitude; thence southeasterly to the most southern point of an island on the northern shoreline of Bay Crabe at 29 degrees 34 minutes 56.5 seconds north latitude and 89 degrees 36 minutes 06.5 seconds west longitude; thence southwesterly to the most eastern point of an island on the southern shore of Bay Gardene at 29 degrees 34 minutes 19.7 seconds north latitude and 89 degrees 37 minutes 17.3 seconds west longitude; thence southwesterly to the most western point of an island on the southern shoreline of Triple Pass at 29 degrees 33 minutes 56.3 seconds north latitude and 89 degrees 38 minutes 42.5 seconds west longitude; thence northerly across Triple Pass to the southern most point of an island on the northern shoreline of Triple Pass at 29 degrees 34 minutes 15.8 seconds north latitude and 89 degrees 38 minutes 42.7 seconds west longitude; thence northwesterly to the northern most part of an island on the western shoreline of Bay Gardene at 29 degrees 35 minutes 12.9 seconds north latitude and 89 degrees 39 minutes 04.6 seconds west longitude; thence northeasterly to a point on the northern shoreline of Bay Gardene at 29 degrees 35 minutes 45.6 seconds north latitude and 89 degrees 38 minutes 15.0 seconds west longitude; thence easterly to the most eastern point of an island on the northern shoreline of Bay Gardene at 29 degrees 35 minutes 47.5 seconds north latitude and 89 degrees 37 minutes 44.2 seconds west longitude; thence northerly back to the point of beginning at 29 degrees 36 minutes 03.9 seconds north latitude and 89 degrees 37 minutes 49.9 seconds west longitude shall close at one-half hour after sunset on March 8, 2006. Increases in fishing effort levels and harvest rates in comparison with recent years, recent declines in annual stock size and evidence of excessive amounts of non-living reef material onboard vessels harvesting seed oysters for bedding purposes is occurring within this area and this public oyster seed reservation is being closed to protect the remaining oyster resource.

The oyster season in the primary public oyster seed ground located east of the Mississippi River as described in LAC 76:VII.511 including the sacking only area of the public ground which is generally Lake Fortuna and Lake Machias to a line from Mozambique Point to Point Gardner to Grace Point at the Mississippi River Gulf Outlet and the Lake Borgne public oyster seed ground as described in LAC 76:VII.513 shall close at one-half hour after sunset on April 1, 2006 unless it is determined that there are excessive amounts of non-living reef material in seed oyster loads, or if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered. The commission at its August 4, 2005 meeting set April 1, 2006 as the last day of the season in these areas and this action reaffirms that closing date.

Dwight Landreneau  
Secretary

0603#026

# Rules

## RULE

### Department of Education Board of Regents

Insurance; Surety Bonds  
(LAC 28:IX.Chapters 1-5)

In accordance with the Administrative Procedure Act, R.S. 17:1808 et seq., the State Board of Regents has amended LAC 28:IX, Regents.

R.S. 17:1808 of Louisiana requires all postsecondary, academic degree-granting institutions to be registered with the Board of Regents. Institutions that are not exempt through certain provisions of R.S. 17:1808 are also required to be licensed by the Board of Regents. Currently, there are approximately 40 institutions licensed by the Board of Regents. These institutions include 2-year and 4-year colleges, public, in-state, and out-of-state institutions operating programs in Louisiana. Louisiana's public institutions and members of the Louisiana Association of Independent Colleges and Universities (LAICU) are exempt from Board of Regents' licensure.

There will be two substantial changes to the Rule.

1. The license application fee will increase from \$750 to \$1,000 per year.

2. Accredited institutions will be exempt from being required to purchase a \$10,000 surety bond.

## Title 28

### EDUCATION

#### Part IX. Regents

#### Chapter I. Rules for Registration and Licensure

##### §101. Definition of Terms

A. Terms used in these regulations such as *Board of Regents*, *Postsecondary*, *Academic Degree-granting Institution*, *Registration*, *Licensure*, and *Fees* shall be interpreted in accordance with R.S. 17:1808.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1551 (December 1993), repromulgated LR 32:386 (March 2006).

##### §103. Registration and License Applications

A. All public and private postsecondary, academic degree-granting institutions offering instruction in the state of Louisiana must register annually with the Board of Regents. Regular licenses are reviewed every two years. Requests for registration forms and license applications should be made in writing and addressed to:

Commissioner of Higher Education  
Louisiana Board of Regents  
P.O. Box 3677  
Baton Rouge, LA 70821-3677

B. Completed registration forms and license applications should be returned to the address shown above.

C. License applications must be accompanied by a nonrefundable license application fee of \$1,000. The license application fee must be paid by company or institutional

check or by money order, and should be made payable to the Louisiana Board of Regents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1551 (December 1993), amended LR 21:168 (February 1995), LR 32:386 (March 2006).

##### §105. License Fees

A. The license application fee shall be \$1,000. Those institutions granted a license to operate will be required to pay an additional \$1,000 at the start of the second year of the two-year licensing period. License renewal fees are required during each subsequent two-year licensing period and are nonrefundable.

B. If a request for license renewal is not received at the Board of Regents' offices at least 30 days prior to its expiration date, the institution can be subject to a delinquent fee of \$500 in addition to the renewal fee.

C. The Board of Regents may authorize assessment of special or supplemental fees to be paid by registered institutions pursuant to special actions or requests.

D. Institutions seeking licensure shall submit all required materials and the nonrefundable license fee to the Board of Regents. If a final determination concerning the institution's qualifications for licensure is not reached within 180 days of receipt of the complete license application, a provisional license will be issued to the institution. The provisional license will remain in effect pending a final licensing decision by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1551 (December 1993), amended LR 21:168 (February 1995), LR 32:386 (March 2006).

##### §107. Information Requirements for Registration<sup>1</sup>

A. All postsecondary, academic degree-granting institutions are required to provide the following information on an annual basis:

1. name and in-state address of the institution;
2. location of its main campus or office;
3. a role, scope, and mission statement;
4. degrees offered in Louisiana;
5. courses offered in Louisiana;
6. the name of the institution's chief executive officer and chief financial officer;
7. names and addresses of the institution's governing board members, if applicable;
8. description of its physical facilities in Louisiana;
9. information relative to the institution's accreditation or official candidacy status from a regional or professional accrediting agency recognized by the United States Department of Education;
10. for institutions domiciles in Louisiana, total enrollment at institution. For institutions domiciles outside of Louisiana, enrollment of Louisiana residents at institution;
11. other information as specified by the Board of Regents.

<sup>1</sup>Registration with the Board of Regents shall in no way constitute state approval or accreditation of any institution and shall not be used in any form of advertisement by any institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1551 (December 1993), amended LR 32:386 (March 2006).

### **Chapter 3. Criteria and Requirements for Licensure** **§301. General Standards**

A. General standards for public and private academic degree-granting institutions offering similar degrees and titles must be as close as possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1552 (December 1993), amended LR 21:168 (February 1995), repromulgated LR 32:387 (March 2006).

### **§302. Accreditation**

A. Institutions must hold accreditation through an association recognized by the U.S. Department of Education. Institutions domiciled outside the state of Louisiana must be fully accredited by an accrediting body recognized by the U.S. Department of Education prior to making an application for licensure with the Board of Regents. Institutions domiciled in the state of Louisiana must either hold recognized accreditation or must make formal application and obtain accreditation from a U.S. Department of Education recognized accrediting association by a date determined by the Board of Regents as a requirement for licensure.

B. Institutions seeking accreditation that have been found to meet other requirements set forth by the Board of Regents will be granted a conditional license until such time that they are accredited, or at a minimum, receive candidacy status from a recognized accrediting association. An institution that does not receive accreditation within the specified time frame may have its conditional license revoked by the Board of Regents.

C. The Board of Regents will consider a possible waiver of the accreditation requirement in the case of single purpose institutions. This consideration will be given in circumstances where the board determines that it would be educationally impractical for an institution to reorganize its programs and operations in order to become eligible for consideration by a U.S. Department of Education recognized accrediting association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 21:168 (February 1995), amended LR 32:387 (March 2006).

### **§303. Faculty**

A. Qualifications of Faculty

1. Faculty shall be qualified by education and experience in the fields in which they teach. Faculty must meet the following minimum requirements.

a. Faculty shall possess no less than the degree awarded to a graduate of the program in which they are teaching.

b. The faculty shall be sufficient in number to establish and maintain the effectiveness of the educational program.

B. Institutions offering advanced degrees must employ only faculty who hold advanced degrees in appropriate fields from institutions accredited by recognized agencies.<sup>1</sup> It is required that faculty credentials be verifiable.

1. If any institution wishes to employ a faculty member whose highest earned degree is from a non-regionally-accredited institution within the United States or an institution outside the United States, the institution must show evidence that the faculty member has appropriate academic preparation.

2. It is the responsibility of the institution to keep on file for all full-time and part-time faculty members documentation of academic preparation, such as official transcripts, and if appropriate for demonstrating competency, official documentation of professional and work experience, technical and performance competency, records of publications, and certifications and other qualifications.<sup>2</sup>

<sup>1</sup> Recognized accrediting agencies are those approved by the United States Department of Education.

<sup>2</sup> Source: Southern Association of Colleges and Schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1552 (December 1993), amended LR 21:169 (February 1995), LR 32:387 (March 2006).

### **§305. Academic Program Standards**

A. All curricula leading to academic credits, certification, and degrees shall be formulated and evaluated by qualified faculty with appropriate education and experience acceptable to public postsecondary, academic degree-granting institutions in Louisiana and elsewhere in the nation.

B. Institutions shall provide prospective students and other interested persons with the following information:

1. admissions policies;
2. program descriptions and objectives;
3. schedule of tuition, fees, and other charges;
4. cancellation and refund policies;
5. schedule of classes;
6. other material information about the institution and its programs which may impact a student's enrollment decision.

C. Institutions must provide programs of sufficient quality and content to achieve stated learning objectives. Curricula offered by the institutions must be formulated and evaluated by faculty with appropriate earned degrees from institutions with U.S. Department of Education recognized accreditation. Institutions are also required to establish procedures for evaluating program effectiveness.

D. Institutions must indicate the means for determining satisfactory academic progress and have available data on student retention, graduation rates, job placement, and passing rates on licensure or certification exams, where appropriate.

E. Currently licensed institutions seeking to implement new academic degree programs must first advise the Board of Regents of the proposed change. New programs will be included as part of the regular license renewal process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1552 (December 1993), amended LR 21:169 (February 1995), LR 32:387 (March 2006).



### §307. Physical Plant Standards

#### A. Library

1. The institution shall maintain and/or provide student access to an appropriate library collection with adequate support staff, services, and equipment. Any contractual agreements with libraries not directly affiliated with the institution shall be available in writing to the Board of Regents.

#### B. Facilities and Equipment

1. The institution shall maintain or provide access to appropriate administrative, classroom, and laboratory space, and appropriate equipment and instructional materials to support quality education based on the type and level of program being offered. Facilities must comply with all health and safety laws and ordinances, including the American with Disabilities Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1552 (December 1993), amended LR 21:169 (February 1995), LR 32:388 (March 2006).

### §309. Financial Operations

A. The business and financial management of the institution shall be directed by a qualified and bonded business officer responsible to the institution's chief executive officer.

B. Institutions are required to maintain adequate insurance to protect the operation of the institution and to guard against any personal or public liability.

C. All institutions shall provide the Board of Regents with a financial review prepared in accordance with standards established by the American Institute of Certified Public Accountants. However, any institution accredited by an agency recognized by the United States Department of Education may, at its discretion, submit financial statements prepared in accordance with rules and guidelines established by the accrediting agency.

D. Institutions shall maintain and update a long-range financial development plan for the institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), repromulgated LR 32:388 (March 2006).

### §311. Maintenance of Records

A. Institutions are required to keep records for a minimum of three years which detail:

1. the composition and background of students, faculty, and administrative staff;
2. the institution's physical plant including land, buildings, library, and research facilities;
3. copies of brochures, catalogs, and advertising which describe student admissions, programs, and scholarships.

B. A student's records must be available for review by that student at the institution's central office.

C. Individual student records must contain:

1. the student's application for admission;
2. academic records;
3. all obligations incurred and all funds paid by the student to the institution;
4. student attendance information;
5. counseling records;

6. financial aid records.

D. Student records shall be available and readily accessible for use and review by authorized officials of the institution and authorized representatives of the Board of Regents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 21:169 (February 1995), LR 32:388 (March 2006).

### §313. Student Services<sup>1</sup>

A. Institutions shall provide orientation and counseling services throughout enrollment. Special services including financial aid, employment placement for graduates, and student housing, if appropriate, must be evaluated periodically by the institution to determine effectiveness in meeting student needs and contribution to the educational purpose of the institution.

<sup>1</sup>The Board of Regents recommends that prospective students seek independent job/career counseling prior to enrollment in an academic degree-granting postsecondary institution and encourages such institutions to promote this recommendation.

AUTHORITY NOTE: Promulgated in accordance with 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), repromulgated LR 32:388 (March 2006).

### §315. Organization and Administration

A. An institution shall establish a governing structure which delineates responsibility for institutional operations, policy formation, and the selection of the institution's chief executive officer. If the institution is governed by a board or group of officers, the role and responsibilities of that body must be clearly defined.

B. Administrative personnel must possess qualifications which support the institution's stated purpose and effective operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 21:169 (February 1995), repromulgated LR 32:388 (March 2006).

### §317. Procedures for Tuition and Fee Refunds

#### A. Pricing and Refund Policy

1. The institution must fully disclose the cost of attendance, including all charges, tuition and fees in writing to prospective students. The parent or guardian of prospective students under legal adult age must be notified in writing of the costs of attendance prior to enrollment.

2. Prospective students shall not be required to make a nonrefundable tuition payment until it has been determined that the prospective student has been accepted for enrollment.

3. The institution's refund policy must be disclosed in the institution's catalog and other informational materials.

4. Institutions are required to follow the minimum standards for tuition refunds as set forth herein. These guidelines are:

- a. students who withdraw prior to the first day of classes are entitled to a full refund of tuition and fees. Institutions may, however, require a nonrefundable application fee;

b. any administrative fees retained by the institution upon the early withdrawal of a student shall not exceed 15 percent of the total cost of tuition and fees paid by the student;

c. institutions which financially obligate students on a quarter, semester, or similar basis will be subject to the following tuition and fee refund policy:

i. students withdrawing during the first 10 days of classes shall receive a minimum refund of 75 percent of total tuition and fees paid, excluding any nonrefundable application fees, less the maximally-allowable administrative fees retained by the institution;

ii. students withdrawing from day 11 through day 24 of classes shall receive a minimum refund of 50 percent of total tuition and fees paid, excluding any nonrefundable application fees, less the maximally-allowable administrative fees retained by the institution;

iii. students withdrawing from day 25 through the end of the quarter, semester, or similar time period are ineligible to receive a refund;

d. institutions which financially obligate students for longer periods of time, i.e., periods exceeding six months, shall be subject to the following tuition and fee refund policy:

i. students completing up to 25 percent of the course of study shall receive a minimum refund of 50 percent of total tuition and fees paid, excluding any nonrefundable application fees, less the maximally-allowable administrative fees retained by the institution;

ii. students completing more than 25 percent but less than 50 percent of the course of study shall receive a minimum refund of 25 percent of total tuition and fees paid, excluding any nonrefundable application fees, less the maximally-allowable administrative fees retained by the institution;

iii. students withdrawing after at least half the program of study has been completed are ineligible to receive a refund;

iv. refund policies for programs offering tuition/fee payments on an installment plan may be examined by the Board of Regents on an individual basis. Refund policies for installment programs are expected to conform generally to refund policies which appear in Clauses A.4.c.i through iii and d.i through iv of this Section;

e. refunds must be paid within 30 days of the date of withdrawal of the student from the institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 21:169 (February 1995), amended LR 32:388 (March 2006).

### §319. Surety Bonding

A. Institutions which do not hold regional or nationally recognized accreditation are required to post a surety bond issued by a surety authorized to do business in the state of Louisiana in the amount of \$10,000 to cover the period of the license. These bonds are intended to protect students in the event of a sudden closure of the institution. Institutions that are also licensed and bonded under R.S. 17:3141 need not seek additional bonding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1554 (December 1993), amended LR 32:389 (March 2006).

### §321. Rules and Guidelines on Advertising<sup>1</sup>

A. Registration with the Board of Regents shall in no way constitute state approval or accreditation of any institution and shall not be used in any form of advertising by any institution.

B. Licensed institutions may use the state name and licensing agency as follows.

1. (*Name of Institution*) is currently licensed by the Board of Regents of the State of Louisiana. Licenses are renewed by the State Board of Regents every two years. Licensed institutions have met minimal operational standards set forth by the state, but licensure does not constitute accreditation, guarantee the transferability of credit, nor signify that programs are certifiable by any professional agency or organization.

2. Any licensed institution wishing to use the state name and licensing agency in any promotion or advertising is restricted to the language which appears above. The statement must appear in its entirety and any modifications are not permissible under these rules or the law.

3. Advertising shall not include false or misleading statements with respect to the institution, its personnel, courses, or services, or the occupational opportunities of its graduates.

4. Institutions claiming accreditation by agencies not recognized by the United States Department of Education must clearly state in all advertising and promotional literature that the institutions' accreditation is not recognized by either the United States Department of Education or the State of Louisiana.

<sup>1</sup>Neither the institution nor its agents shall engage in false advertising or other misleading practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1554 (December 1993), repromulgated LR 32:389 (March 2006).

### §323. Hearings and Appeals

A. Institutional hearings and appeals are handled in accordance with guidelines set forth in R.S. 17:1808, §1(E)(F).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1554 (December 1993), repromulgated LR 32:389 (March 2006).

### §325. Sale of Ownership and Transfer of License

A. In the event that an institution sells all or a majority interest in its ownership, it is required to notify the Board of Regents of both expected and final sale. A review of the institution's operations and objectives will be required upon final sale to determine if the institution's operating license should be transferred to the new ownership. Any and all costs associated with the Board of Regents' review will be borne by the new ownership of the institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 21:170 (February 1995), repromulgated LR 32:389 (March 2006).

### §327. Licensure Denial

A. Any institution denied licensure by the Board of Regents that wishes to seek reconsideration by the board is required to wait a minimum of 24 months before resubmitting its license application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 21:170 (February 1995), repromulgated LR 32:390 (March 2006).

## Chapter 5. Consumer Protection

### §501. General Provisions

A. Individuals must make reasonable effort to solve disputes directly with the institution. If a solution cannot be reached, an individual may file a written complaint with the Board of Regents. Board of Regents' staff will review the facts and intervene where appropriate. Such intervention shall not include legal action on behalf of the party, but may include additional investigation of the institution including a site visit to determine if the institution's license should be revoked.

#### B. Disciplinary Provisions and Administrative Penalties

1. The Board of Regents may institute disciplinary proceedings against a licensed agent who engages in false or misleading advertising. The Board of Regents may also require an institution to submit all advertising for approval prior to use.

2. It is illegal for institutions which come under the jurisdiction of the Board of Regents to advertise, recruit students for, and/or operate educational programs in the state of Louisiana unless properly registered and licensed.

3. Penalties may be assessed for the following violations:

- a. operating an institution without a license;
- b. deceptive or fraudulent advertising;
- c. offering an unapproved program;
- d. other violations as determined by the Board of Regents.

4. Violations may result in suspension of student enrollments where patterns of abuse and willful misconduct have been established.

#### C. Meetings, Site Visits, and Reports

1. The Board of Regents, at its discretion, may conduct preliminary conferences with institutional officers and board members to discuss standards and procedures for implementing licensure.

2. The Board of Regents may require a site visit and examiner's report at the cost of the institution. The cost shall not exceed the actual dollar amount incurred by the Board of Regents.

3. Site visits could include an inspection of facilities, books, school files and records, as well as interviews with administrators, faculty, and students.

4. Examiners would submit a report following the site visit with recommendations pertaining to the licensure of the institution.

#### D. Enforcement

1. The attorney general is authorized to seek injunctive relief against an institution operating in noncompliance with the law. All costs incurred by the state of Louisiana in connection with such action shall be borne by the institution if it is found to be operating illegally.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1554 (December 1993), repromulgated LR 32:390 (March 2006).

E. Joseph Savoie, Ed.D.  
Commissioner

0603#025

## RULE

### Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices—Administrative Error, Cell Phones and Other Electronic Devices, and GEE 21 Administration Rules (LAC 28:CXI.312, 316 and 1351)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, Board of Elementary and Secondary Education adopted revisions to Bulletin 118, *Statewide Assessment Standards and Practices*. Bulletin 118 contains the State Board of Elementary and Secondary Education (SBESE) and the Division of Student Standards and Assessments (DSSA) test policy rules, guidelines, and procedures for easy access during statewide test administration. The purpose of this project is to provide information regarding:

- Testing Opportunities for Louisiana High School Diploma Endorsements. In Chapter 13, §1351 language has been added to permit seniors who wish to retest for diploma endorsements to test during the fall retest. If a student is unable to test during the fall retest administration, the student may test in the February seniors retest only retest.
- Addition of new language in Chapter 3 regarding test security. In Chapter 3, §312 titled "Administrative Error" will be added. The Section will provide guidelines and rules about administrative error that may occur during statewide assessment.
- Addition of new language in Chapter 3 regarding Cell phones and Other Electronic Devices. In Chapter 3, §316 titled, "Cell phones and Other Electronic Devices" will be added. The Section will provide guidelines and rules regarding cell phones and other electronic devices usage during the administration of statewide assessment.

### Title 28

### EDUCATION

### Part CXI. Bulletin 118—Statewide Assessment Standards and Practice

#### Chapter 3. Test Security

#### §312. Administrative Error

A. Administrative errors by school personnel that results in a question regarding the security of the test or the accuracy of the test data are considered testing irregularities. If it is deemed necessary to void the test, the district test coordinator must fax a completed void form to the LDE, Division of Student Standards and Assessments, as directed in the District and School Test Coordinators Manual. The original Void Verification Form, along with a copy of the account of the incident, must also be mailed to the LDE,

Division of Student Standards and Assessments, as directed in the manual.

B. If LEAP English language arts and/or mathematics tests are voided by the district due to administrative error, the LEA superintendent may initiate a request to the state superintendent of education for an opportunity to retest prior to the next scheduled test administration on behalf of individual students who are not eligible for promotion.

C. If a GEE test is voided by the district due to administrative error for a graduating senior, the LEA superintendent may initiate a request to the state superintendent of education for an opportunity to retest prior to the next scheduled test administration on behalf of the individual students who are not eligible for graduation because of the administrative error.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 32:390 (March 2006).

### **§316. Cell Phones and Other Electronic Devices**

A. If district and school policy allows for students and personnel to carry cell phones or other similar technological devices with imaging or text-messaging capability, test administrators must make certain that the devices are in the off position while test booklets and answers documents are in the vicinity.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 32:391 (March 2006).

## **Chapter 13. Graduation Exit Examination**

### **Subchapter D. GEE 21 Assessment Structure**

#### **§1351. GEE 21 Administration Rules**

A. - M. ...

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1554 (July 2005), amended LR 32:391 (March 2006).

Weegie Peabody  
Executive Director

0603#018

### **RULE**

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

Bulletin 1943—Policies and Procedures for Louisiana Teacher Assistance and Assessment—Standards for Certification (LAC 28:XXXVII.1901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1943—Policies and Procedures for Louisiana Teacher Assistance and*

*Assessment* (LAC 28:XXXVII). These changes to current Bulletin 1943 policy provide for revisions to the assessment standards for new teachers that are directly related to the inclusion of three new components in the Domains of Professional Development and School Improvement in the revised Louisiana Components of Effective Teaching (LCET). The standards for certification are aligned with the revised LCET and reflect the achievement of a "competent" "2" rating on 11 components of the LCET for new teachers beginning the Louisiana Teacher Assistance and Assessment Program (LaTAAP) in Fall 2006. The amended language aligns Bulletin 1943 policy with the department's approval of the Blue Ribbon Commission's recommendations to strengthen the LaTAAP and the revised LCET.

### **Title 28**

#### **EDUCATION**

#### **Part XXXVII. Bulletin 1943—Policies and Procedures for Louisiana Teacher Assistance and Assessment**

##### **Chapter 19. Assessment Standards for Certification**

##### **§1901. Standards for Certification**

A. The assessment standards for certification recommended by a Standards Setting Panel convened by the State Superintendent of Education in June, 1994, adopted by the SBESE in the same month, and revised in Summer 2005 are:

1. achievement of a "competent", "2" rating on 11 components of the *Louisiana Components of Effective Teaching*.

NOTE: For new teachers entering the first semester of LaTAAP in Fall 2006, the assessment standards will be the achievement of a competent (2) rating on the 11 Components from Planning, Management, Instruction, Professional Development, and School Improvement. Review of the assessment standards will occur as needed.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:283 (February 2002), amended LR 30:1657 (August 2004), LR 32:391 (March 2006).

Weegie Peabody  
Executive Director

0603#017

### **RULE**

#### **Student Financial Assistance Commission**

##### **Office of Student Financial Assistance**

Student Financial Assistance Bylaws  
Committee Membership (LAC 28:V.109)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Bylaws (R.S. 17:3021-3025 and R.S. 17:3048.1).

### **Title 28**

#### **EDUCATION**

#### **Part V. Student Financial Assistance—Higher Education Loan Program**

##### **Chapter 1. Student Financial Assistance Commission Bylaws**

##### **§109. Committees**

A. - C.3. ...

D. Quorum of Committee Meetings. A simple majority of the regular and/or ex officio members present at a meeting of a committee of the commission shall constitute a quorum for the transaction of business. When a quorum is not present, the chairman of the commission, the chairman of the committee, or vice chairman in the chairmen's absence, may designate a member of the commission to serve as a substitute member of the committee concerned.

E. - F.2. ...

3. Members of the executive committee are ex officio members of committees of the commission to which they have not been appointed as regular members. When a quorum is not present for a committee of the commission, the ex officio member(s) present shall serve as regular member(s) of the committee with voting privileges and shall be counted for purposes of affecting a quorum.

G. Budget and Finance Committee. The budget and finance committee shall consist of not less than five members of the commission. Normally, to this committee shall be referred all matters related to budget and to policies concerning the financial management of the commission and the office.

H. Personnel Committee. The personnel committee shall consist of not less than five members of the commission. Normally, to this committee shall be referred matters concerning oversight of personnel policies, staffing, and related matters. This committee shall hear appeals pursuant to the office's grievance procedure.

I. Internal Audit Committee. The internal audit committee shall consist of not less than five members of the commission. The internal auditor of the agency shall report to and be solely responsible to the internal audit committee for the performance and reporting of findings of internal audits approved by the commission as part of the internal audit plan. Every year, no later than the June meeting of the commission, the internal auditor shall submit to the committee for its consideration a proposed annual internal audit plan covering the next fiscal year. The plan shall incorporate those internal audits, which are recommended by the executive director. The committee shall forward its recommendations for the annual internal audit plan to the commission for approval. The internal auditor shall complete each internal audit required by the annual internal audit plan and submit audit findings to the committee for its review. The committee shall forward the report of findings to the executive director, who shall be given an opportunity to submit written comments prior to the committee's consideration of the report of findings. The findings of each internal audit, the executive director's comments, if any, and any committee comments and/or recommendations shall be presented to the commission for its disposition. Normally, to this committee shall also be referred all matters related to reports of audits performed by external auditors.

J. Planning Committee. The planning committee shall consist of not less than five members of the commission. Normally, to this committee shall be referred the strategic plans and related matters.

K. Rules Committee. The rules committee shall consist of not less than five members of the commission. Normally, to this committee shall be referred all matters related to making and interpreting rules.

L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:811 (September 1996), repromulgated LR 24:1264 (July 1998), amended LR 26:484 (March 2000), LR 27:35 (January 2001), LR 32:391 (March 2006).

George Badge Eldredge  
General Counsel

0603#044

## RULE

### Tuition Trust Authority Office of Student Financial Assistance

#### Tuition Trust Bylaws—Committee Membership (LAC 28:VII.109)

The Louisiana Tuition Trust Authority has amended its Bylaws (R.S. 17:3091 et seq.).

#### Title 28

#### EDUCATION

#### Part VII. Tuition Trust Authority

#### Chapter 1. Bylaws

#### §109. Committees

A. - C.5. ...

D. Quorum of Committee Meetings

1. A simple majority of the regular and/or ex officio members present at a meeting of a committee of the authority shall constitute a quorum for the transaction of business.

2. When a quorum is not present, the chairman of the authority, the chairman of the committee, or vice-chairman in the chairmen's absence, may designate a member of the authority to serve as a substitute member of the committee concerned.

E. - F.10. ...

11. Members of the executive committee are ex officio members of committees of the authority to which they have not been appointed as regular members. When a quorum is not present for a committee of the authority, the ex officio member(s) present shall serve as regular member(s) of the committee with voting privileges and shall be counted for purposes of affecting a quorum.

G. Budget and Finance Committee

1. The budget and finance committee shall consist of not less than five members of the authority.

G.2. - H.3.d. ...

I. Planning Committee. The planning committee shall consist of not less than five members of the authority. Normally, to this committee shall be referred the strategic plans and related matters.

J. Rules Committee. The rules committee shall consist of not less than five members of the authority. Normally, to this committee shall be referred all matters related to making and interpreting rules.

K. Audit Committee. The audit committee shall consist of not less than five members of the authority. Normally, to this committee shall be referred all matters involving audits of any program administered by the authority.

L. Special Committees

1. As the necessity therefor arises, the chairman may, with the concurrence of the authority, create special committees with such functions, powers and authority as may be delegated.

2. The chairman may appoint ad hoc committees for special assignments for limited periods of existence not to exceed the completion of the assigned task.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:1655 (December 1997), amended LR 27:190 (February 2001), LR 27:1221 (August 2001), LR 30:785 (April 2004), LR 32:392 (March 2006).

George Badge Eldredge  
General Counsel

0603#043

**RULE**

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

**Underground Storage Tanks  
(LAC 33:XI.301, 509, and 1313)(UT011)**

*Editor's Note:* A portion of this Rule, which was published on pages 1065-1076 in the *Louisiana Register* on May 20, 2005, is being reprinted to correct a typographical error and manifest errors in citations referring to Sections that were amended in the Rule. This reprint corrects the text as it was amended in May 2005. LAC 33:XI.301.C was amended again in Rule OS065 in the *Louisiana Register* on October 20, 2005. That amendment is not reflected in this Editor's Note.

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 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.B.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, LR 31:1066 (May 2005), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 32:393 (March 2006).

**Chapter 5. General Operating Requirements**

**§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.B);
3. documentation of UST system repairs (LAC 33:XI.507.B);
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), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 32:393 (March 2006).

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

**§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 representatives 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), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 32:394 (March 2006).

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Executive Counsel

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**RULE**

**Department of Health and Hospitals  
Board of Wholesale Drug Distributors**

Wholesale Drug Distributors  
(LAC 46:XCI.Chapters 1-8)

The Louisiana Board of Wholesale Drug Distributors has amended LAC 46:XCI.Chapters 1-8 in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 37:3467 et seq. of the Louisiana Board of Wholesale Drug Distributors Practice Act. These Rule amendments will further assist and support the board in its ability to regulate wholesale drug distribution within the state. The Rule amendments have no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The amendments to the Rule are set forth below.

**Title 46**

**PROFESSIONAL AND OCCUPATION STANDARDS**

**Part XCI. Wholesale Drug Distributors**

**Chapter 1. General Provisions**

**§103. Definition**

A. As used in this regulation, unless the context otherwise requires:

*Adulterated Drug or Device*—a drug or device shall be deemed adulterated if:

- a. it consists, in whole or in part, of any filthy, putrid, or decomposed substance; or
- b.i. it has been produced, prepared, packed, or held under unsanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or
- ii. the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that the drug or device meets with the requirements of this part as to safety and has the identity and strength, and meets with the quality and purity characteristics which it purports or is represented to possess; or
- c. its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or
- d.i. it bears or contains, for purposes of coloring only, a color additive which is unsafe within the meaning of federal or Louisiana law or rule; or
- ii. it is a color additive, the intended use of which is for the purpose of coloring only, and is unsafe within the meaning of federal or Louisiana law or rule; or
- e. it purports to be or is represented as a drug or device the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in the compendium. Such a determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in the compendium, or in the absence of or inadequacy of these tests or methods of assay, those prescribed under the authority of federal or state law or rule. No drug or device defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the

standard of strength, quality, or purity therefore set forth in the compendium, if its difference in strength, quality, or purity from the standard is plainly stated on its label;

f. it is not subject to Subparagraph e above and its strength differs from, or its quality or purity falls below that which it purports or is represented to possess; or

g. it is a drug or any substance has been:

i. mixed or packed therewith so as to reduce its quality or strength; or

ii. substituted wholly or in part thereof; or

h. it is a device, all consideration as noted in the federal Food, Drug, and Cosmetic Act.

*Agent or Representative*—a person authorized by another person called the principal to act for him or on his behalf in wholesale drug distribution and who may or may not take physical possession such that the drug or device is sold to the agent or representative and may be shipped to a third party.

*Blood*—whole blood collected from a single donor and processed either for transfusion or further manufacturing.

*Blood Components*—that part of blood separated by physical or mechanical means.

*Board*—the Louisiana Board of Wholesale Drug Distributors.

*Broker*—a person participating in the wholesale distribution of a drug or device that buys or sells the drug or device, but does not take physical possession such that it is sold to the broker and shipped to a third party.

*Consumer or Patient*—a person who is the end user of a drug or device.

*Contraband Drug or Device*—a drug or device which is counterfeit, stolen, misbranded, obtained by fraud, purchased and placed in commerce in violation of its own use agreement for that drug or device, or for which the documentation in existence has been forged, counterfeited, falsely created, or contains any altered, false, or misrepresented information.

*Controlled Substance*—those substances, drugs, or immediate precursors listed in Schedules I through VI of the Uniform Controlled Substances Act.

*Counterfeit Drug or Device*—a drug or device which, or the container, shipping container, seal, or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or any likeness thereof, of a manufacturer, processor, packer, or distributor, other than the person who in fact manufactured, processed, packed, or distributed such drug or device and which thereby falsely purports or is represented to be the product of, or to have been packed or distributed by, such other manufacturer, processor, packer, or distributor.

*Deliver or Delivery*—actual, constructive, or attempted transfer of a drug or device from one person to another, whether or not for consideration.

*Distribute or Distribution*—to sell, offer to sell, broker, give away, or transfer, drugs or devices whether by passage of title, physical movement, or both.

*Distributor*—any person who is lawfully engaged in wholesale drug or device distribution.

*Drug or Device*—any legend drug or legend device intended for use by humans which can be dispensed by prescription or order of a licensed practitioner and whose labeling contains the legend "Caution: Federal law prohibits

dispensing without a prescription, or except the sale by or on order of a physician or appropriate licensed practitioner" or "Rx only".

*Drug Sample or Complimentary Drug*—a unit of a prescription drug that is labeled "sample", "not to be sold", or "complimentary", or other words to that effect, which is provided as a courtesy and not intended to be sold but is intended to promote the sale of the drug.

*Facility or Physical Location*—structure, warehouse, or building used by a person for the reception, storage, handling, repackaging, and/or offering for sale of a drug or device.

*Freight Forwarder*—a person participating in the wholesale distribution of a drug or device that acts as the agent for the distribution of a drug or device, and does or does not take physical possession such that it is sold to the broker and shipped to a third party.

*Jobber*—a person who purchases drugs or devices, usually in bulk, to sell to another person in the wholesale drug distribution industry.

*Label or Labeling*—a display of written, printed, or graphic matter located immediately upon, or accompanying, a drug or device.

*Legend Drug*—

a. a drug limited by Section 503(b)(1) of the federal Food, Drug, and Cosmetic Act to being dispensed by or upon a licensed practitioner's prescription because the drug is:

i. habit-forming;

ii. toxic or having potential for harm;

iii. limited in its use to use under a practitioner's supervision by the new drug application for the drug;

b. the product label of a legend drug is required to contain the statement "Rx Only" or "CAUTION: FEDERAL LAW PROHIBITS DISPENSING WITHOUT A PRESCRIPTION", or "EXCEPT THE SALE BY OR ON ORDER OF A PHYSICIAN OR APPROPRIATE LICENSED PRACTITIONER";

c. a legend drug includes prescription drugs subject to the requirement of Section 503(b)(1) of the federal Food, Drug, and Cosmetic Act, which shall be exempt from Section 502(F)(1) if certain specified conditions are met.

*Licensed Practitioner or Appropriate Licensed Practitioner*—a person who is duly licensed, registered, or otherwise authorized by law to administer, prescribe, or dispense, as appropriate, a drug or device for medical purposes in the course of professional practice.

*Manufacture or Manufacturing*—the act of preparing a drug or device in dosage form, by mixing, propagating, compounding, processing, encapsulating, entableting, or other process, including packaging, repackaging, or labeling.

*Manufacturer*—a person engaged in manufacturing a drug or device and includes a labeler, primary distributor, or person who is engaged in preparing drugs or devices in dosage form, by mixing, propagating, compounding, conversion, processing, encapsulating, entableting, or other process, including packaging, repackaging, or labeling.

*Medical Gas*—any compressed liquefied or compressed vaporized gas that is a drug whether it is alone or in combination with another gas or gases.

*Misbranded*—a drug or device shall be deemed misbranded if the label is false or misleading in any particular, or the label does not bear the name and address of



the manufacturer, packer, or distributor and does not have an accurate statement of the quantities of the active ingredients in case of a drug, or does not show an accurate monograph for legend drug, or other considerations as required in the federal Food, Drug, and Cosmetic Act.

*Own Label Distributor*—a person that packages and/or manufactures and packages a drug or device that bears the name of the distributor along with the distributor's national drug code number and lot number.

*Person*—individual, partnership, corporation, limited liability company, trust, business firm, association, franchise arrangement, combination of any of these entities, or any other legal entity, including government.

*Pharmacy*—any pharmacy licensed by the appropriate regulatory board or agency of the state in which the pharmacy facility is located.

*Prescription Drug*—any drug required by federal or state law or regulation to be dispensed only by a prescription, including finished dosage forms and active ingredients subject to Section 503(b) of the Federal Food, Drug, and Cosmetic Act.

*Private Label Distributor*—a person that packages and/or manufactures and packages a drug or device that bears the name of the distributor along with the distributor's national drug code number and lot number.

*Repackage or Repackaging*—changing or altering the container, wrapper, or label of a drug or device to further its distribution.

*Repackager*—a person who repackages or engages in repackaging.

*Rx Only*—any human drug or device required by federal or state law or regulation to be dispensed by prescription only.

*Sale, Selling, or To Sell*—any transfer of ownership, or percentage thereof, of a drug or device whereby a risk of loss is assumed by the person acquiring the ownership including distribution, barter, exchange, or gift.

*Warehouse or Warehouseman*—a person engaged in the business of receiving, storing, and/or distributing a drug or device whether it is owned by this person or another person.

*Wholesale Drug or Device Distribution* and *Wholesale Distributions*—the distribution of drugs or devices to persons other than consumers or patients including distribution by manufacturers, repackagers, own label distributors, jobbers, and wholesale drug or device distributors, but does not include:

- a. sale or transfer between any division, subsidiary, parent and/or affiliated or related company under common ownership and control, or a sale to a customer to cover a particular unforeseen need or from such a common ownership facility as certified by a licensed facility;
- b. the purchase or other acquisition by a hospital or other health care entity that is a member of a group purchasing organization from the group purchasing organization or from other hospitals or health care entities that are members of such organization;
- c. the sale, purchase or trade of a drug or an offer to sell, purchase, or trade a drug by a charitable organization described in Section 501(c)(3) of the federal Internal Revenue Code of 1954 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

d. the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug among hospitals or other health care entities that are under common control; for the purposes of this regulation *common control* means the power to direct or cause the direction of the management and policies of a person or an organization whether by ownership of stock, voting rights, by contract or otherwise;

e. the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug for emergency medical reasons; for purposes of this regulation, *emergency medical reasons* include transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage that arises from delays in or interruptions of regular distribution schedules;

f. the sale, purchase, or trade of a drug; an offer to sell, purchase, or trade a drug; or the dispensing of a drug pursuant to a prescription;

g. the distribution of drug samples by manufacturers' representatives or distributors' representatives; or

h. the sale, purchase or trade of blood and blood components intended for transfusion.

*Wholesale Drug or Device Distributor*—any person engaged in wholesale distribution of drugs or devices, including but not limited to:

- a. manufacturers;
- b. repackers' own-label distributors;
- c. private label distributors;
- d. jobbers;
- e. brokers;
- f. warehouses;
- g. including manufacturers' and distributors' warehouses, chain drug warehouses, and wholesale drug warehouses;
- h. independent wholesale drug traders;
- i. retail pharmacies that conduct wholesale distributions; and
- j. freight forwarders.

*Wholesale Drug Trader*—a person in the wholesale drug distribution industry who sells or distributes a drug or device which is substantially in the same form it is purchased by a person other than a consumer or patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:381 (April 1992), amended LR 29:1479 (August 2003), LR 32:394 (March 2006).

### **Chapter 3. Wholesale Drug or Device Distributors**

#### **§301. Licensing, Renewal and Reinstatement Requirements**

A. Every wholesale drug or device distributor who engages in the wholesale distribution of drugs or devices, to include without limitation, manufacturing in this state, shipping in or into this state or selling or offering to sell in or into this state, shall register annually with the board by application for a license on a form furnished by the board and accompanied by a fee of \$200. The board shall require a separate license for each facility or physical location directly or indirectly owned or operated by the same business entity within this state, or for a parent entity with divisions, subdivisions, subsidiaries, and/or affiliate companies within

this state when operations are conducted at more than one location and there exists joint ownership and control among all the entities.

B. A license shall be renewed annually by timely and properly submitting application and other pertinent information which may be requested as well as the payment of a renewal fee of \$200, to the board prior to December 31 each calendar year.

C. All licenses issued by the board and not otherwise timely and properly renewed, shall expire on December 31 for the calendar year issued.

D. Each application for the renewal of the license must be made on or before December 31 of each year. If a license is not timely and properly renewed on or before December 31, a person may apply for reinstatement of the expired license within one year, or by the next December 31 after expiration of the license, upon timely and properly submitting an application to the board, and other pertinent information which may be requested, as well as payment of the renewal fee of \$200 and a reinstatement fee of \$200. However, during the period the license is expired until reinstatement of the expired license, the person may not lawfully operate as a wholesale drug or device distributor in Louisiana.

E. Each license issued hereunder shall be displayed by the licensee in a conspicuous place at the licensed facility or physical location.

F. Out-of-state wholesale drug or device distributors licensed by the board must have on file at all times with the board a current copy of a valid certificate of registration or license for wholesale drug or device distribution as issued by the appropriate regulatory board or agency of the state in which the facility or physical location licensed with the board is located.

1. If the state in which the facility licensed with the board is located does not require the facility to be registered or licensed as a wholesale drug or device distributor and the facility or physical location is registered or licensed in the state in which it is located as a manufacturer of drugs or devices, a current copy of the valid manufacturer registration or license must be submitted to and maintained with the board.

2. If the state in which the facility or physical location licensed with the board is located does not require the facility or physical location to be registered or licensed as a wholesale drug or device distributor and/or the facility or physical location is not a registered/licensed manufacturing facility and the state in which the facility or physical location is located does not require any registration or licensure of the facility or physical location, a letter from the appropriate regulatory board or agency must be submitted to the board confirming such fact.

3. If the facility or physical location licensed with the board does not physically distribute and/or manufacture the drugs or devices that it owns or holds title to and/or the facility or physical location licensed with the board contracts with another facility for the warehousing and/or distribution of the drugs or devices and the state in which the facility or physical location licensed by the board is located does not require any registration or licensure of the facility or physical location, a letter from the appropriate regulatory board or agency confirming this fact and a current copy of

the valid registration or license from the state in which the contracted facility is located must be submitted to the board.

G. Wholesale drug or device distributor applicants and licensees physically located and conducting operations in Louisiana shall provide a list of their wholesale drug or device distributors from whom they purchased and/or received a legend drug or device within the 12 months prior to application or renewal application; the list shall include, but not be limited to:

1. name of each wholesale drug or device distributor;
2. each wholesale drug or device distributor's business address and telephone number; and
3. each wholesale drug or device distributor's distribution address(es) from which the legend drug or device was shipped.

H. An initial application for a new license is valid for 180 days after receipt by the board and must be completed within this time frame.

1. If the application is not completed, the application becomes void and any application fee(s) paid is forfeited by the applicant and is non-refundable.

2. After the 180 days have expired, a new application for a license will be required to be submitted by the applicant to include payment of another license application fee.

I. Requests for voluntary cancellation of a license made by a licensee must be made in writing and must include information such as, but not limited to, the date the request is effective and the reason for the voluntary cancellation of the license.

a. If the request for voluntary cancellation is made before the license has expired, the original unexpired license certificate must be returned to the board and no refund of any portion of the license fee(s) paid will be made by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 29:1480 (August 2003), LR 32:396 (March 2006).

### **§303. Required Information**

A. The board requires the following from each person applying for a license to be a wholesale drug or device distributor as part of the initial licensing procedure and as part of any renewal or reinstatement of such license:

1. the name, full business address, and telephone number of the person applying for a license, renewal or reinstatement;
2. all trade or business names used by the person applying for a license, renewal or reinstatement;
3. addresses, telephone numbers, and the names of contact persons for the facility or physical location used by the person applying for a license, renewal or reinstatement in wholesale drug or device distribution;
4. the type of ownership or form of business operation used by the person applying for a license, renewal or reinstatement (i.e., partnership, corporation, or sole proprietorship);
5. the name(s) addresses, and telephone numbers of the owners, partners, directors, officers, and/or managers, as applicable, of the person applying for a license, renewal, or

reinstatement, including the name of the state where incorporated or otherwise authorized to conduct business;

6. a list of every state, territory, or district, other than Louisiana, where the facility applying for a license, renewal, or reinstatement holds a current license as a wholesale drug or device distributor;

7. any other information which the board may require to determine qualification for obtaining, renewing, or reinstating a license.

B. Where operations are conducted at more than one facility or physical location by a single wholesale drug or device distributor, each such facility or physical location shall be licensed by the board.

C. Changes in any information required in this regulation shall be submitted in writing to the board within 60 days after such changes become effective. Failure to do so may result in disciplinary action being taken against the licensee.

D. A license shall be valid only for the person or the facility or physical location for which it is issued. Licenses are not transferable for change of location or change of ownership of the facility or physical location licensed by the board. Any such change shall require the submission of an application and fee for, and the issuance of, a new license by the board and the termination of the existing license.

E. Wholesale drug or device distributors with a place of business physically located in Louisiana must notify the board, in writing, within three business days of discovering, or being in a position to have acquired such knowledge of, any theft or diversion of drugs or devices.

F. Wholesale drug or device distributors with a place of business physically located in Louisiana must notify the Board, in writing, within 24 hours of discovery of, or being in a position to have acquired such knowledge of, any contraband, counterfeit, or misbranded drugs or devices in their possession whether actual or constructive.

G. A wholesale drug or device distributor physically located in Louisiana shall report to the appropriate governing authority within 72 hours of discovering, or being in the position to have acquired such knowledge of, any suspected violation of applicable federal, state, or local laws in Louisiana and regulations with regards to wholesale drug or device distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 29:1480 (August 2003), LR 30:1481 (July 2004), LR 32:397 (March 2006).

### **§305. Qualifications**

A. The board shall consider the following factors in issuing an initial license, the renewal of an existing license, or reinstatement of a license to a person to engage in the wholesale distribution of drugs and devices:

1. any convictions of the applicant under any federal, state, or local laws relating to drug samples, wholesale or retail drug distribution, or distribution of controlled substances;

2. any felony convictions of the applicant under federal, state, or local laws;

3. the applicant's past experience in the manufacture or distribution of prescription drugs or devices, including controlled substances;

4. the furnishing by the applicant of false or fraudulent information to the board;

5. suspension or revocation by federal, state, or local government of any license currently or previously held by the applicant, including a license to distribute or manufacture any drug or device, including controlled substances;

6. compliance with the licensing requirements under any previously granted licenses;

7. compliance with the requirements to maintain and/or make available to the state licensing authorities or to federal, state, or local law enforcement officials those records required to be maintained by wholesale drug or device distributors;

8. any other factors that the board considers relevant to and consistent with its function to protect public health and safety;

9. failure to timely comply with a request made by the board shall result in the termination of an application for license or renewal. The applicant may apply for reinstatement if timely done and in accordance with the requirements for reinstatement, as well as timely complying with the request made by the board.

B. An applicant must be at least 21 years of age and of good moral character and temperate habits.

C. The board shall deny a license to an applicant if it determines that the issuing of such a license would not be in the interest of public health, safety or welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 32:398 (March 2006).

### **§307. Personnel**

A. Personnel employed in wholesale drug distribution shall have appropriate education and/or experience to assume responsibility for positions related to compliance with state licensing requirements.

B. A wholesale drug or device distributor licensed by the board shall be responsible for the acts and/or omissions of such personnel which are deemed in violation of the Louisiana statutes for wholesale drug distributors and board promulgated regulations. The board shall have the authority to proceed with disciplinary action and sanction its licensee for such acts and/or omissions of his personnel in violation of the statutes and/or regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 32:398 (March 2006).

### **§309. Storage and Handling Requirements**

A. The following are required for the storage and handling of drugs or devices, and for the establishment and maintenance of drug or device distribution records by wholesale drug or device distributors and their officers, agents, representatives, and employees.

1. Facility. A facility at which drugs or devices are stored, warehoused, handled, held, offered, marketed or displayed shall:

a. be of suitable size and construction to facilitate cleaning, maintenance, and proper operations;

- b. have storage areas designed to provide adequate lighting, ventilation, temperature, sanitation, humidity, space, equipment, and security conditions;
- c. have a designed and clearly identified quarantine area for storage of drugs or devices that are outdated, damaged, deteriorated, misbranded, or adulterated, or that are in immediate or sealed, secondary containers that have been opened;
- d. be maintained in a clean and orderly condition; and
- e. be free from infestation by insects, rodents, birds, or vermin of any kind.

2. Security

- a. A facility used for wholesale drug or device distribution shall be secure from unauthorized entry.
  - i. Access from outside the premises shall be kept to a minimum and be well-controlled.
  - ii. The outside perimeter of the premises shall be well-lighted.
  - iii. Entry into areas where drugs or devices are held shall be limited to authorized personnel.
- b. A facility, with the exception of a facility distributing medical gases only, shall be equipped with a monitored alarm system to detect entry after hours.
- c. A wholesale drug or device distributor that distributes medical gases only shall store a medical gas under lock and key if the medical gas is stored inside a board-approved storage facility that is not equipped with a monitored alarm system to detect entry after hours.
- d. A wholesale drug or device distributors that distributes medical gases only who stores the medical gas on an open dock shall be equipped with a monitored alarm system to detect entry after hours.
- e. A facility shall be equipped with a security system that will provide suitable protection against theft or diversion and provide protection against theft or diversion that is facilitated or hidden by tampering with computers or electronic records.

3. Storage. Drugs or devices shall be stored at appropriate temperatures and under appropriate conditions in accordance with requirements, if any, in the labeling of such drugs or devices or in compliance with applicable requirements in the current edition of an official compendium.

- a. If no storage requirements are established for a drug or device, the drug or device may be held at room temperature, as defined in an official compendium, to help ensure that its identity, strength, quality, and purity are not adversely affected.
- b. Appropriate manual, electromechanical, or electronic temperature recording equipment, devices, and logs approved by the board shall be utilized to document proper storage of drugs or devices.
- c. The recordkeeping requirement in §311 shall be followed for all stored drugs or devices.

4. Examination of Materials

a. Upon receipt, each outside shipping container shall be visually examined for identity and to prevent the acceptance of contaminated or adulterated drugs or devices, or drugs or devices that are otherwise unfit for distribution or considered contraband or counterfeit. This examination shall be adequate to reveal exterior container damage that

would suggest possible contamination or other damage to the contents.

b. Each outgoing shipment shall be carefully inspected for identity of the drug or device and to ensure that there is no delivery of drugs or devices that have been damaged in storage or held under improper conditions.

c. The recordkeeping requirements in §311 shall be followed for all incoming and/or outgoing drugs or devices.

d. Brokers, freight forwarders, agents, or representatives of a principal that receives at their place of business licensed by the board shipments of drugs or devices that are to be forwarded to their clients may not open the shipment packages. These packages are to be unopened and free of tampering when forwarded by carrier to the client.

5. Returned, Damaged, and Outdated Drugs or Devices

a. Drugs or devices that are outdated, damaged, deteriorated, misbranded, contaminated, adulterated, misbranded, counterfeit, or contraband shall be quarantined and physically separated in a clearly identified area from other drugs or devices until they are destroyed or returned to their supplier.

b. Any drugs or devices whose immediate or sealed outer or sealed secondary containers have been opened or used shall be identified as such, and shall be quarantined and physically separated in a clearly identified area from other drugs or devices until they are either destroyed or returned to the supplier.

c. If the conditions under which a drug or device has been returned cast doubt on the drug or device's safety, identity, strength, quality, or purity, then the drug or device shall be destroyed or returned to the supplier, unless examination, testing or other investigation proves that the drug or device meets appropriate standards for safety, identity, strength, quality, and purity. In determining whether the conditions under which a drug or device has been returned cast doubt on the drug or device's safety, identity, strength, quality, or purity, the wholesale drug or device distributor shall consider, among other things, the conditions under which the drug or device has been held, stored, or shipped before or during its return and the condition of the drug or device and its container, carton, or labeling, as a result of storage or shipping.

d. The recordkeeping requirements in §311 shall be followed for all outdated, damaged, deteriorate, misbranded, contaminated, adulterated, counterfeit, or contraband drugs or devices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 29:1480 (August 2003), LR 32:398 (March 2006).

**§311. Drug or Device Distribution Recordkeeping**

A. Wholesale drug or device distributors shall establish and maintain perpetual inventories and records of all transactions regarding the receipt and distribution or other disposition of drugs or devices. These records shall include the following information:

- 1. source of the drugs or devices, the name and principal address of the seller or transferor, and the address of the facility or physical location from which the drugs or devices were shipped;

2. the identity and quantity of the drugs or devices received and distributed or disposed of; and

3. the dates of receipt and distribution of the drugs or devices.

B. Inventories and records shall be made available for inspection and photocopying by any official authorized by the board for a period of three years following disposition of the drugs or devices at issue.

C. Records described in this regulation that are kept at the inspection site facility or licensed physical location or that can be immediately retrieved by computer or other electronic means shall be readily available for authorized inspection during the retention period. Records kept at a central location apart from the inspection site facility or licensed physical location and not electronically retrievable shall be made available for inspection within two working days of a request by any official authorized by the board.

D. Copies of current licenses for customers who are authorized by law or regulation to procure or possess drugs or devices shall be maintained for all customers that are shipped or sold drugs or devices. If customer licenses are maintained off site, a list of customer names, addresses, license numbers, and license expiration dates shall be maintained for all customers that are shipped or sold drugs or devices.

E. Wholesale drug or device distributors that distribute medical gas are not required to maintain a perpetual inventory on oxygen, but are required to maintain perpetual inventories on all other medical gases.

F. Wholesale drug or device distributors physically located and conducting operations in Louisiana shall verify prior to purchasing or receiving product that their suppliers of drugs or devices are licensed by the board to ship or sell in or into Louisiana; and are responsible for notifying the board of any unlicensed wholesalers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:383 (April 1992), amended LR 29:1480 (August 2003), LR 32:399 (March 2006).

### **§313. Policy and Procedures**

A. Wholesale drug or device distributors shall establish, maintain, and adhere to written policies and procedures, which shall be followed for the receipt, security, storage, inventory, and distribution of drugs or devices, including policies and procedures for identifying, recording, and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories including contraband or counterfeit drug or device information. Wholesale drug or device distributors shall include in their written policies and procedures the following:

1. a procedure whereby the oldest approved stock of a drug or device is distributed first. The procedure may permit deviation from this requirement if such deviation is temporary and appropriate;

2. a procedure to be followed for handling recalls and withdrawals of drugs or devices. Such procedure shall be adequate to deal with recalls and withdrawals due to:

a. an action initiated at the request of the Food and Drug Administration or other federal, state, or local law enforcement or other government agency, including the board;

b. any voluntary action by the manufacturer to remove defective or potentially defective drugs or devices from the market; or

c. any action undertaken to promote public health and safety by replacing of existing merchandise with an improved product or new package design;

3. a procedure to ensure that wholesale drug or device distributors prepare for, protect against, and handle any crisis that affects security or operation of any facility in the event of strike, fire, flood, or other natural disaster, or other situations of local, state, or national emergency;

4. a procedure to ensure that any outdated drugs or devices shall be segregated from other drugs or devices and either returned to the manufacturer or destroyed. This procedure shall provide for written documentation of the disposition of outdated drugs or devices. This documentation shall be maintained for three years after disposition of the outdated drugs;

5. a procedure to validate customer licenses, to review excessive or suspicious purchases, to inspect all incoming and outgoing shipments, and to monitor and record the temperature of product storage;

6. a procedure to notify the board, in writing, within three business days of discovering, or being in a position to have required such knowledge, of any theft or diversion of a drug or device;

7. a procedure to notify the board, in writing, within 24 hours of discovery, or being in a position to have required such knowledge, or any contraband, counterfeit, or misbranded drug or device in his possession, whether actual or constructive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:384 (April 1992), amended LR 29:1480 (August 2003), LR 32:400 (March 2006).

### **§315. Responsible Persons**

A. Wholesale drug or device distributors shall establish and maintain lists of officers, directors, managers, and other persons in charge of wholesale drug or device distribution, storage, and handling, including a description of their duties and a summary of their qualifications. The list shall be provided to the board at the time of annual renewal of license, and any change in the list during the interim shall be provided to the board, in writing, within 60 calendar days of such change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:384 (April 1992), amended LR 32:400 (March 2006).

### **§317. Federal, State and Local Law Compliance**

A. Wholesale drug distributors shall operate in compliance with applicable federal, state, and local laws and regulations.

1. Wholesale drug or device distributors shall permit the state licensing authority and authorized federal, state and local law enforcement officials upon having shown appropriate identification to enter and inspect their facility or physical location and delivery vehicles, and to audit their records and written operating procedures, at reasonable

times and in a reasonable manner, to the extent authorized by law.

2. Wholesale drug or device distributors that deal in controlled substances shall register with the appropriate state controlled substance authority and with the Drug Enforcement Administration (DEA), and shall comply with all applicable state, local, and DEA regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:384 (April 1992), amended LR 32:400 (March 2006).

### **§319. Salvaging and Reprocessing**

A. Wholesale drug or device distributors shall be subject to the provisions of any applicable federal, state, or local laws or regulations that relate to drug or device product salvaging or reprocessing, including Chapter 21, Parts 207, 210d, 211 or the Code of Federal Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:384 (April 1992), amended LR 32:401 (March 2006).

### **§321. Facility or Physical Location Inspections and Records Inspections**

A. The board may conduct inspections, and reinspections, upon all facilities and physical locations, including delivery vehicles, purporting or appearing to be used by a person licensed by the board, or applying for a renewal or a new license to the board. The board, in its discretion, may accept a satisfactory inspection by the United States Food and Drug Administration (USFDA) or a state agency which the board determines to be comparable to that made by USFDA or the board.

B. The board may waive the initial inspection if an applicant whose applying facility is not located within Louisiana presents to the board a satisfactory license or certificate of registration for wholesale drug or device distribution as issued by the appropriate regulatory board or agency of the state in which the applying facility is located.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:384 (April 1992), amended LR 32:401 (March 2006).

### **§323. Penalties**

Repealed.

[Editor's Note: This Section has been moved to §711.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:384 (April 1992), repealed LR 32:401 (March 2006).

### **§325. Premises and Records Inspection**

Repealed.

[Editor's Note: This Section has been moved to §321.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), repealed LR 32:401 (March 2006).

## **Chapter 5. Powers and Functions of the Board**

### **§501. Injunctive Powers**

A. The board may, in its discretion, and in addition to various remedies provided by law and its regulations,

petition a court having competent jurisdiction over the parties and subject matter for injunctive relief to enjoin violations of the Louisiana statutes for wholesale drug distributors and/or the board's regulations, or of any conduct which constitutes a clear and present danger to the public health and safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), amended LR 32:401 (March 2006).

### **§503. Board Domicile; Meetings**

A. The board shall be domiciled in Baton Rouge, Louisiana. The regular meetings of the board shall be held at least two times a year in accordance with applicable law and at any other time the board deems necessary, at a time and place designed by the chairman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), amended LR 29:1481 (August 2003), LR 32:401 (March 2006).

### **§505. Rules of Order**

A. All meetings of the board shall be conducted in accordance with *Robert's Rules of Order* (Latest official edition).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), amended LR 32:401 (March 2006).

### **§507. Rule Promulgation**

A. The board shall have the authority to adopt, amend or repeal any rule necessary to implement and enforce the Louisiana statutes for wholesale drug distributors, in keeping with its function, in strict accordance with the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), amended LR 32:401 (March 2006).

### **§509. Inspection Contracts**

A. The board may contract with any person or agency it deems qualified to conduct any inspections or reinspections required by state or federal law.

B. The board shall retain exclusive jurisdiction to adjudicate all complaints, allegations of misconduct, or noncompliance by any licensee or applicant for license, renewal, or reinstatement of a license and to impose appropriate sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), amended LR 30:1481 (July 2004), LR 32:401 (March 2006).

## **Chapter 7. Disciplinary Procedures**

### **§701. Complaint Initiations**

A. Complaints may be initiated by any person, including the state of Louisiana acting through any of its departments, or by the board on its own initiative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), amended LR 32:401 (March 2006).

### **§703. Complaint Investigations**

A. Upon receipt of complaints or inquiries, the board shall take the following action.

1. The complaint or inquiry shall be received by the board office and assigned for investigation.

2. If the information in the complaint is insufficient, the board may request further information by either written correspondence or the board may cause an investigation to be made.

B. All complaints received shall be assigned a docket code number which shall be utilized in all official references.

C. The board, through its appointed representative(s), shall act upon all complaints and inquiries received.

D. The identity of all parties to a complaint, and other sensitive information, shall not be revealed during an investigation if to do so would potentially jeopardize the ongoing investigation. If formal charges are filed, then the process of discovery will apply to parties involved in the action.

E. The board shall inform the complainant of the action taken and any final results.

F. If the person against whom a complaint is filed with the board refuses or fails to cooperate with the board in the investigation, he shall be sent a notice, by certified mail to the address on file with the board, that if he continues to refuse to cooperate, such action or inaction on his part shall be considered a separate violation for which he may be denied a license, or his license may be suspended or revoked, or otherwise sanctioned, and/or he may be assessed a monetary penalty as provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), amended LR 32:402 (March 2006).

### **§705. Complaint Withdrawals**

A. If the complainant wishes to withdraw the complaint, the investigation and/or proceedings are not automatically terminated. The board may complete the investigation and/or proceedings in its own right and in the interest of public health, safety and welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), amended LR 32:402 (March 2006).

### **§707. Hearings**

A. Notice of Hearings. The board shall formally charge the party against whom a complaint has been made when said complaint appears to be sufficient cause for suspension or revocation of a license, or other disciplinary sanction. At least 30 days prior to the date set for a public hearing, the formal charges and notice shall be sent by certified mail to the party against whom the complaint is made at his last known address on file with the board. The formal charges and notice shall conform to the requirements of the Administrative Procedures Act.

B. Disposition of Complaint. The board shall conduct such investigations, order such hearings, and take such other action as it finds necessary to make an intelligent decision on the complaint submitted for review.

C. Appearance. The party against whom the complaint has been made and upon notice being served, must appear at the date, time and place fixed for the hearing.

D. Default in Appearing. In the event the party against whom the complaint has been made fails to appear at the hearing provided for and also that notice has been given as to the hearing date, time and place, the party so failing to appear or otherwise obtain approval of the board for its absence shall be deemed to be in default and the evidence as received by the board at that time may be entered into the record and may be taken as true and the order of the board entered accordingly.

E. The procedure for notice, hearing and appeals, there from, shall be that of the Louisiana Administrative Procedure Act.

F. Hearing Procedure. The hearings called according to these rules and regulations shall be conducted by the board in accordance with the Administrative Procedure Act.

1. The chairman of the board or the vice-chairman in the absence of the chairman shall announce the title and docket number of the proceeding before the board. Attorneys and/or other representative of the accused party shall be recognized along with the representatives of the board and other proper parties.

2. The board's attorney and/or representative shall then present its evidence.

3. The accused or his attorney shall then be entitled to present its evidence subject to cross examination by the board's attorney and/or representative.

4. The board, after deliberation in executive session, may render a decision in the case by order, consent order, or default order.

G. Board's Decision. The decision of the board shall be submitted, in writing, to the accused and/or his attorney, if any, by certified mail within a reasonable period after it is rendered by the board.

H. Rehearings. A decision or order of the board shall be subject to rehearing or reconsideration by the board within 10 days from the date of receipt of the decision by the accused and/or his attorney, if any. Rehearings or reconsiderations shall be conducted in accordance with the Administrative Procedure Act.

I. Recording of Hearings. The board shall make a full recording of all proceedings before it and shall at the request of any party have prepared and furnished to him a copy of the transcript or any part thereof upon payment of the actual cost thereof.

J. Judicial Review of Decision. A person who is aggrieved by a final decision or order of the board is entitled to Judicial Review in accordance with the Louisiana Administrative Procedure Act. Proceedings for Judicial Review may be instituted in the district court of the parish in which the board is located within 30 days after receipt of the notice of the final decision by the board or if a rehearing or reconsideration occurs within 30 days after the decision thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), amended LR 32:402 (March 2006).

**§711. Sanctions**

A. After notice and hearing, the board may deny, revoke or suspend a license or otherwise sanction a licensee, for any of the following:

1. violation of any federal, state, or local law or regulation relating to drugs;
2. violation of any provision of this regulation;
3. commission of any act or engaging in a course of conduct which constitutes a clear and present danger to the public health and safety.

B. In addition to the above sanctions, the board may impose a monetary penalty not to exceed \$1,000 per violation. The maximum aggregate monetary penalty shall not exceed 50 times the maximum penalty per individual violation.

C. Each instance where a federal, state, or local law or regulation is violated shall constitute a separate violation.

D. The authority of the board to impose a monetary penalty in a case is not to be affected by any other civil or criminal proceeding concerning the same violation, nor shall the imposition of a monetary penalty preclude the board from imposing other sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:384 (April 1992), amended LR 32:403 (March 2006).

**§713. Declaratory Statements**

A. The board may issue a declaratory statement in response to any written request for clarification of the effect of the provisions of the state statutes for wholesale drug distribution, the regulations of the board, and/or other applicable legal authority regarding wholesale drug distribution industry, on a stated set of circumstances.

B. The declaratory statement shall be in writing and be issued by the board within a reasonable period of time taking into consideration the nature of the matter and circumstances involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 32:403 (March 2006).

**Chapter 8. Fees**

**§801. Fees**

A. The board may collect the following fees.

1. Application—\$200
2. Renewal—\$200
3. Reinstatement—\$200

B. An annual renewal fee and renewal application shall be received at the board office with a postmarked date on or before December 31 each calendar year.

C. All licenses, not properly and timely renewed, shall be expired becoming void on midnight December 31.

D. Any license not properly and timely renewed shall be allowed to be reinstated within one year of expiration provided the former licensee submits a renewal application and payment of all applicable fees including the renewal fee and reinstatement fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 32:403 (March 2006).

John Liggio  
Executive Director

0603#019

**RULE**

**Department of Health and Hospitals  
Office of the Secretary**

Organ Procurement Agency Coordination  
(LAC 48:I.2901 and 2903)

Editor's Note: The following Rule is being repromulgated in order to codify the text. The original uncodified Rule was promulgated in the April 2002 *Louisiana Register* on pages 834 and 835.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part I. General Administration**

**Subpart 1. General**

**Chapter 29. Organ Procurement**

**§2901. Definitions**

*A Designated Requestor*—an individual who has completed a course offered or approved by the OPO and designed in conjunction with the tissue and eye bank community in the methodology for approaching potential donor families and requesting organ and tissue donation.

*Department*—the Department of Health and Hospitals.

*Hospital*—a hospital licensed, accredited, or approved under the laws of any state and includes a hospital operated by the U.S. government, a state, or subdivision thereof, although not required to be licensed under state laws.

*Louisiana/Designated Organ Procurement Organization*—the organ procurement organization designated by CMS and recognized by the secretary of the Department of Health and Hospitals of Louisiana under R.S.17:2354.4(J).

*Organ Procurement Organization (OPO)*—an organization that is designated by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), formerly Health Care Financing Administration, or its successor, to perform or coordinate the performance of surgical recovery, preservation, and transportation of organs, and that maintains a system for locating perspective recipients for available organ transplantation.

*Tissue Bank or Storage Facility*—a nonprofit facility licensed or approved under the laws of any state for storage of human bodies or parts thereof for use in transplantation to individuals, medical education, research, or therapy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:2354.4(J), and 42 CFR Part 482.45.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 28:834 (April 2002), repromulgated LR 32:403 (March 2006).

**§2903. Conditions for Participation**

A. In order to insure that the family of each potential donor is informed of its options to donate organs, tissues, or



eyes or to decline to donate, the department adopts the procedures specified in the federally approved Medicare Conditions for Participation for Hospitals (42 CFR Part 482.45) to be followed by all hospitals in Louisiana. The individual designated by the hospital to initiate the request to the family must be an organ procurement representative or a designated requestor.

B. The Department of Health and Hospitals shall recognize the federally designated organ procurement organization. A letter by the CMS shall be presented to the Secretary of the Department of Health and Hospitals upon certification of the organ procurement organization. Any changes between certification periods shall be reported to the secretary within 30 working days.

C. The secretary shall compile and disseminate a list of those nonprofit organ and tissue banks that, in addition to the Louisiana designated OPO, shall be authorized to receive donations under this Section. The organ procurement organization shall be authorized upon designation by the Health Care Finance Administration. The nonprofit tissue bank or eye bank must submit copies of the following to the secretary for authorization:

1. proof that a nonprofit tissue bank or eye bank registered in this state or any state as a 501-C-3 charitable organization with no direct ties to any for-profit tissue processor unless an approved nonprofit vehicle is unavailable;

2. a copy of the current accreditation letter by the American Association of Tissue Banking for those nonprofit tissue banks, and a current accreditation letter by the Eye Banks of America Association for the nonprofit eye banks.

D. Under the Medicare Conditions for Participation for Hospitals, the following procedures are to be implemented to facilitate proper coordination among hospitals, Louisiana designated OPO, and tissue and eye banks.

1. All hospitals will incorporate an agreement with the Louisiana designated OPO, under which it must notify in a timely manner, the OPO of individuals whose death is imminent or who have died in the hospital.

2. The OPO will determine medical suitability for organ donation under this agreement.

3. The hospital will incorporate an agreement with at least one nonprofit tissue bank and at least one non-profit eye bank to cooperate in the retrieval, processing, preservation, storage, and distribution of tissues and eyes, as may be appropriate to assure that all useful tissues and eyes are obtained from potential donors, insofar as such an agreement does not interfere with organ procurement.

4. The Louisiana designated OPO will refer all appropriate referrals to the appropriate nonprofit tissue or eye bank which the OPO and hospital have incorporated an agreement with for those purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:2354.4(J), and 42 CFR Part 482.45.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 28:834 (April 2002), repromulgated LR 32:403 (March 2006).

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

0603#029

## RULE

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

CommunityCARE Program  
(LAC 50:I.2901, 2903, 2907, 2911)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:I.2901, 2903, 2907 and 2911 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

##### Part I. Administration

##### Subpart 3. Medicaid Managed Care

##### Chapter 29. CommunityCARE

##### §2901. Introduction

A. CommunityCARE is a statewide Medicaid managed care program designed to provide improved access to health care for eligible Medicaid recipients. The goal of the CommunityCARE Program is to improve the accessibility, continuity and quality of care for certain Medicaid recipients.

B. The CommunityCARE Program provides certain Medicaid recipients statewide with a medical home through linkage to a primary care provider (PCP) who is responsible for providing care coordination for most Medicaid covered services, as well as treatment, referrals/authorizations for specialty services which the PCP does not provide and patient education.

C. 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 29:908 (June 2003), amended LR 32:404 (March 2006).

##### §2903. Recipient Participation

A. The following groups of Medicaid recipients are required to enroll in the CommunityCARE Program:

1. LIFC and LIFC-related recipients; and
2. SSI and SSI-related, non-Medicare recipients from age 19 up to age 65.

B. The following groups of recipients are excluded from participating in the CommunityCARE Program:

1. residents of:
  - a. long term care nursing facilities;
  - b. intermediate care facilities for the mentally retarded (ICF/MR); and
  - c. psychiatric facilities;
2. recipients who are age 65 or older;
3. Medicare (Part A or B) recipients, including dual eligibles;
4. refugees;

5. recipients in the Medicaid physician/pharmacy Lock-In Program (pharmacy only lock-in recipients are not exempt from participation);

6. recipients with other primary health insurance that has physician benefits, including health management organizations (HMOs);

7. Hospice recipients;

8. recipients with eligibility less than three months or retroactive only eligibility;

9. Native American Indians who reside in a parish with a Reservation;

10. recipients in pregnant woman eligibility categories;

11. recipients in the PACE Program;

12. recipients in foster care, other out-of-home placement or receiving adoption assistance; and

13. clients of the Office of Youth Development (in state custody).

C. The following groups of recipients who were previously required to enroll in CommunityCARE may now choose to enroll voluntarily:

1. children under age 19 who are:

a. eligible for SSI under Title XVI;

b. eligible under Section 1902(e)(3) of the Social Security Act (New Opportunities Waiver and Children's Choice recipients); or

c. receiving services through a family-centered, community-based, coordinated care system that receives grant funds under section 501(a)(1)(D) of Title V, and is defined by the state in terms of either program participation or special health care needs.

D. Requests for medical exemptions shall be reviewed for approval on a case-by-case basis for certain medically high risk recipients that may warrant the direct care and supervision of a non-primary care specialist.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:908 (June 2003), amended LR 32:404 (March 2006).

### §2907. Provider Qualifications

A. The following primary care providers who are currently enrolled Medicaid providers in good standing and meet CommunityCARE standards for participation are eligible to participate in the CommunityCARE Program as primary care providers (PCPs). Primary care providers enrolling in CommunityCARE must meet all of the general Medicaid enrollment conditions. The providers who may participate as PCPs are:

1. general practitioners;

2. family practitioners;

3. pediatricians;

4. gynecologists;

5. internists;

6. obstetricians; or

7. other physician specialists or nurse practitioners who meet the program standards for participation may be approved by the department under certain circumstances.

B. - F. 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 29:909 (June 2003), amended LR 32:405 (March 2006).

### §2911. PCP Referral/Authorization

A. The following Medicaid covered services do not require written referral/authorization by the recipient's PCP:

1. chiropractic services resulting from KIDMED referrals/authorizations for children under age 21;

2. dental services for children under age 21 and certain pregnant women ages 21-59;

3. higher level emergency room visits and associated physician services (CPT codes 99283, 99284 and 99285);

4. pre-certified inpatient care, including hospital, physician and ancillary services (This is applicable to public hospitals even though they are not required to obtain pre-certification for inpatient stays.);

5. EPSDT health services—rehabilitative type services such as occupational, physical and speech/language therapy delivered to EPSDT recipients through schools, early intervention centers or the Early Steps Program;

6. family planning services;

7. prenatal/obstetrical services, including neonatology inpatient services;

8. targeted case management services;

9. pharmacy services;

10. transportation services;

11. inpatient psychiatric services;

12. home and community-based waiver services;

13. ophthalmology and optometry services;

14. mental health services;

15. hemodialysis services;

16. hospice services;

17. specific outpatient laboratory and radiology services;

18. immunizations for children under age 21 through the Office of Public Health and their affiliates;

19. services provided through the Office of Public Health's Women, Infants, and Children (WIC) program; and

20. services provided by school based health centers to recipients age 10 and older.

B. All other Medicaid services require a written referral/authorization from the recipient's assigned PCP prior to rendering services except the following:

1. lower level emergency room visits and associated physician services do not require authorization prior to rendering services, but post authorization from the recipient's PCP is required (CPT codes 99281, 99282 and equivalent).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:909 (June 2003), amended LR 32:405 (March 2006).

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.

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

0603#069

**RULE**

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

Early and Periodic Screening, Diagnosis and Treatment Program Extended and/or Multiple Daily Skilled Nursing (LAC 50:XV.7501)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals LAC 50:XV.7501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XV. Services for Special Populations**

**Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment**

**Chapter 75. Extended and/or Multiple Daily Skilled Nursing**

**§7501. Medically Fragile**

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 30:253 (February 2004), repromulgated LR 30:429 (March 2004), repealed LR 32:406 (March 2006).

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

0603#067

**RULE**

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

Home Health—Extended Nursing Services (LAC 50:XIII.305)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XIII.305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XIII. Home Health**

**Subpart 1. Home Health Services**

**Chapter 3. Medical Necessity**

**§305. Extended Nursing Services for Ages 0-21**

A. Extended nursing services may be provided to a Medicaid recipient who is age birth through 21 when it is determined to be medically necessary for the recipient to receive a minimum of three hours per day of nursing

services. Medical necessity for extended nursing services exists when the recipient has a medically complex condition characterized by multiple, significant medical problems that require nursing care as defined by the Louisiana Nurse Practice Act.

B. Multiple nursing visits on the same date of service may be provided to a recipient who is age birth through 21 when the medical necessity criteria for extended nursing services are met and these services cannot be provided during the course of one visit.

C. Extended and multiple daily nursing services must be prior authorized in accordance with the certifying physician's orders and home health plan of care. All nursing services shall be provided in accordance with the Louisiana Nurse Practice Act.

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 32:406 (March 2006).

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.

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

0603#068

**RULE**

**Department of Public Safety and Corrections  
Corrections Services**

Visitation—Adult Inmates (LAC 22:I.316)

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, amends the contents of §316.Visitation: Adult Inmates.

The purpose of this amendment is to update the secretary's policy to maintain an inmate's family ties while also maintaining adequate control and supervision of the visiting process. In this matter, as in all others affecting institutional operations, safety, and security are primary considerations.

**Title 22**

**CORRECTIONS, CRIMINAL JUSTICE AND LAW  
ENFORCEMENT**

**Part I. Corrections**

**Chapter 3. Adult Services**

**Subchapter A. General**

**§316. Visitation: Adult Inmates**

A. Purpose. To establish the secretary's policy regarding inmate visiting at all adult secure institutions.

B. Applicability. Deputy secretary, chief of operations, assistant secretary and wardens. The warden is responsible for implementing this regulation and conveying its content to all inmates, affected employees and visitors.

C. General. The department recognizes the importance of visitation in the maintenance of an inmate's family ties. However, there must be approved rules and procedures so that the visiting process does not overtax the institution's

ability to process visitors and so that adequate control and supervision of the visiting process can be maintained. In this matter, as in all others affecting institutional operations, safety and security are primary considerations.

#### D. Inmate Visiting

1.a. When an inmate is received at an institution, written information regarding visiting procedures will be made available to him within 24 hours after arrival at the facility. Such information should include but is not limited to: institution address and phone number; directions to the institution and information regarding local transportation; days and hours of visitation; approved dress code and identification requirements; authorized items; rules for children; and special visits.

b. The inmate will be afforded the opportunity to choose no more than 10 individuals (subject to the provisions of this regulation) to be placed on his visiting list. An inmate participating in a special recognition program may, at the warden's discretion, be allowed to have up to 15 visitors placed on his visiting list. Specific criteria for such programs will be developed by the warden. Legal advisors, one approved religious advisor, and children 14 years and younger may be allowed to visit without being included in this number. It is the inmate's responsibility to provide the correct name, address, birth date, race, and sex of the visitor. A record shall be maintained of approved visitors, as well as a confirmation of their actual visits. When an inmate is transferred to another institution, all visiting information will be sent with the inmate for use at the receiving institution. This includes transfers to work release programs. The inmate's current visiting information should be utilized by the work release program to allow for visitation.

EXCEPTION: Inmates housed at the Louisiana Correctional Institute for Women shall have visitors placed on their visiting list in accordance with LCIW Regulation No. 4-02-002 "Resident Classification Plan/Classification Status Review."

2.a. All proposed visitors will be checked for criminal history. The methods of obtaining this history are:

- i. sending out requests for a police check to local law enforcement agencies (see Appendix A-"Police Questionnaire");
- ii. CAJUN 2;
- iii. NCIC; or
- iv. LACCH.

b. While the use of LACCH is considered optimum, the warden retains the option of choosing the method of obtaining the police record that best meets the needs of the institution. Each institution may honor the criminal history check of another institution.

3.a. The approval of ex-inmates as visitors is at the discretion of the warden. Notwithstanding this, any person who has been convicted of a felony and who has not been finally discharged from an institution or from probation or parole supervision more than two years without an intervening criminal record should be denied approval to visit. In addition, any person who in the previous five years has three or more felony charges (regardless of disposition) should be denied approval to visit, or approved visiting should be revoked.

b. These restrictions may be waived if the visitor is an identifiable parent, legal spouse, sibling, grandparent, or child of the inmate and the warden approves such visitation.

4. An ex-employee of the department may be denied approval to visit if such denial is deemed by the warden to be in the best interest of the institution.

5.a. All minors (under the age of 17) must be accompanied by an adult who is on the approved visiting list and who is either:

- i. a family member of the minor; or
- ii. the minor's legal guardian.

b. Visitors who are 15 or 16 will be counted on the inmate's visiting list even though they must be accompanied by an approved adult.

c. Exceptions to being accompanied by an adult may be made in the following cases:

- i. minor spouse;
- ii. emancipated minors (Judgment of Emancipation required as proof); or
- iii. minors visiting as part of approved institutional programs such as school groups, church groups, parenting groups, etc.

#### 6. Restrictions on Visiting

a. An inmate may refuse to see a visitor but he will be asked to sign a statement to that effect (or documentation will be placed in his file that he refuses to do so).

b. A person may be removed from the approved visiting list at his own request or at the request of the inmate.

c. Any person may be denied permission to visit during the time of a disturbance at the institution. All visiting may be suspended during an emergency.

d. A visitor can be on only one inmate's visiting list unless that visitor is an immediate family member of more than one inmate. The burden of proof and documentation will be the responsibility of the inmate and his family.

7. All visitors (except minors) must have picture identification in order to visit an inmate.

8. When an inmate requests a visitor be added to his visiting list, it shall be the inmate's responsibility to send the attached questionnaire (see Paragraph J.2.Facility Form) to the proposed visitor. By signing the questionnaire, the visitor is agreeing to be on the inmate's list and to obey the institution's rules. The information received from the questionnaire will be used to run the criminal history check prior to final approval.

9. It is the institution's responsibility to develop and post procedures regarding the notification of visitors of their approval or disapproval.

10. Grandfather Clause. All approved visitors who were on an adult inmate's visiting list on May 31, 1993, will remain approved (unless removed for cause). If the inmate has more than 10 approved visitors, the inmate may not add or substitute an additional visitor without bringing his visiting list into compliance with the regulation.

E. Changing the Visiting List. Each inmate shall be allowed to request changes (additions, deletions, substitutions) to his approved visiting list every four months.

1. When an inmate enters an institution and has no established visiting record, tentative approval to visit should be given to the inmate's parents, legal spouse, grandparents, siblings, and children upon request of the inmate. Some preliminary verification of relationship may be required. Exceptions must be approved by the warden or his designee and be based upon legitimate security considerations.

2. When an inmate transfers to another institution, his approved visitors should be approved at the receiving institution, unless it is demonstrated that the requirements/restrictions of this policy were not previously adhered to in the approval process or unless the warden at the receiving institution identifies the need to apply restrictions based upon current security considerations. An inmate shall be allowed to request a change in his visiting list when he first arrives and at four month intervals thereafter.

#### F. Number, Duration, and Conditions of Visits

1. Approved visitors should be allowed to visit the inmate at least two times per month.

2. While a two hour visit is optimum, each warden or designee retains the discretion to determine the duration of visits, as well as the days and hours on which they may occur. Available space and staff will determine visiting lengths.

3. Each warden or his designee retains the discretion to determine the number of visitors who may visit an inmate at one time. Family visiting and contact visits are to be permitted to the extent possible.

4. All visitors are to be informed in writing of the rules governing visiting. Rules will be conspicuously posted in the visiting areas.

5. Any visit may be terminated if the inmate or visitor violates the rules governing visiting.

6. Dress Code for Visitors. All visitors must be dressed appropriately. Institutional policy should allow the wearing of shorts, skorts, or culottes where the length and appearance are acceptable. See through clothing and seductive garments are not allowed. All visitors must wear full-length shirts. Tank tops are not allowed. Blue chambray shirts and gray or white sweatshirts are not allowed to be worn by visitors where they are allowed to be worn by the inmate population. Shoes should be appropriate (house slippers, thongs, or shower shoes are not allowed). Individuals improperly dressed may be refused permission to visit.

7. Institutions that have the capability of conducting non-contact/screened visitation may restrict contact visiting privileges of inmates who are housed in segregation and disciplinary units or who have been found guilty of a contraband-related violation relative to the visiting process. Contact visiting privileges shall be restricted for inmates who have been found guilty of drug related disciplinary charges including but not limited to contraband for possession of drugs and/or a positive reading on a urinalysis or breathalyzer test as defined in the Disciplinary Rules and Procedures for Adult Inmates, or who have refused to be tested or to cooperate in testing. Such restriction must be formally reviewed every six months at a minimum. Restriction of contact visiting is not a disciplinary penalty.

8. Picnic visits are authorized as approved by the warden or designee.

#### G. Suspension of Visiting Privileges

1. Any person may be refused approval to visit an inmate and removed from the approved visiting list if the visitor does not comply with the rules of the institution. (Such removal may be temporary or permanent, depending

upon the severity of the violation and should be in accordance with Paragraph C of this Section.)

2. Any person may be refused approval to visit an inmate if the conduct of the visitor amounts to a violation of State and/or Federal law, such as assault, battery, disturbing the peace, introduction or attempted introduction of contraband, lewd behavior, etc. (Such removal may be temporary or permanent, depending upon the severity of the violation and should be in accordance with Paragraph C of this Section.)

3. If an offense is such that it is the warden's desire to remove the visitor from the visitor list (either indefinitely or for a fixed period of time), the following procedure must be used:

a. The warden or his designee must notify the visitor in writing that he has been removed from all applicable visiting lists, the reason why, and that the removal will be reviewed after a specified amount of time. The visitor shall also be notified that he may appeal the warden's decision to the secretary by sending a letter within fifteen days of the date of the notice;

b. If the visitor exercises this appeal right, the secretary or his designee will review the appeal and investigate, as appropriate, within thirty days of notice. If necessary, a hearing will be scheduled and the visitor will be notified of the time, date and location of the hearing;

c. The warden or his designee may submit a report to the secretary setting forth any information that he feels may assist in making the decision. If a hearing is held, the secretary or his designee may determine that the warden or his designee should attend this hearing, in which event the warden shall be so advised. Otherwise, the hearing shall consist of a meeting between the visitor and the secretary or his designee, and shall be preserved by minutes.

d. The secretary shall render a written decision granting or denying the appeal and shall notify the visitor and the warden of the decision without undue delay. Brief reasons for the decision shall be given.

#### H. Treatment of Visitors

1. There will be no discrimination in visiting. All visitors and inmates should be provided equal opportunities in visiting, in accordance with the inmate's security class and housing assignment.

2. Visitors will be treated with courtesy at all times and will not be subjected to unnecessary delay or inconvenience in accomplishing a visit.

3. All visitors with disabilities will have readily accessible facilities and will be reasonably accommodated as appropriate and to the extent possible within the context of the department's fundamental mission to preserve the safety of the public, staff, and inmates.

#### I. Special Visits

1. The warden or designee may approve "special visits" on a case-by-case basis including:

a. persons who are unable to visit on regular visiting days, friends and relatives from out of state, persons visiting for business purposes;

b. additional visitors or extended visiting periods (in addition to those allowed by institutional procedures);

c. a person otherwise restricted from visiting.

J. Appendices

1. Law Enforcement Form

UNIT:

RE:
DOC#

Dear:

We are establishing an approved visitors list for the above referenced inmate. He has requested that he be permitted to receive visits from the persons named below:

It would be appreciated if you would furnish the following information:

1. Does this person possess an arrest record?

If so, what are the specific offenses and dispositions?

2. We would greatly appreciate any additional information you feel would be beneficial to us.

Comments

Thank you for your cooperation. Any information furnished will be treated confidentially.

Sincerely,

Visiting Officer

2. Facility Form

UNIT: RE: DOC#

Dear:

The above referenced inmate has requested that you be approved to visit this facility. However, prior to approval, it is imperative that we have the information below: (Your reply will be treated confidentially).

NOTE: THIS FORM MUST BE COMPLETED IN ITS ENTIRETY AND RETURNED TO THIS FACILITY WITHIN DAYS IF YOU DESIRE TO VISIT.

Do you wish to visit this inmate?

Your Name Social Security Number

Address City State Zip

Birth Date Race Sex Phone Number Marital Status

Relationship to Inmate

Name Any Other Inmate(s) You Are Presently Visiting and Where

Have you or a family member been the victim of a crime committed by this inmate?

Have you ever been employed by the Department of Public Safety and Corrections, Correction Services? If yes, dates of employment and location?

Have you ever been arrested for a felony? If yes, give offense, location, date and disposition. It is not necessary to list misdemeanors or a 1st offense DWI.

If you are under age 17, your parent or legal guardian must complete the following: I, give permission for to visit the above named inmate at this facility. I realize that all visitors are subject to personal and computer search by Department personnel.

Signature

Date

Visiting Officer

For Office Use Only

Computer Operator

Date

Results:

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:833(A).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 5:2 (January 1979), amended LR 11:1096 (November 1985), repromulgated LR 29:2851 (December 2003), amended by the Department of Public Safety and Corrections, Corrections Services, LR 32:406 (March 2006).

Richard L. Stalder
Secretary

0603#042

RULE

Department of Revenue
Policy Services Division

Computation of Net Allocable Income from
Louisiana Sources (LAC 61:I.1130)

Under the authority of R.S. 47:287.81, R.S. 47:287.92, R.S. 47:287.93, R.S. 47:287.785, 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, amends LAC 61:I.1130 relative to the computation of net allocable income from Louisiana sources.

The primary purpose of this regulation is to update the corporation income tax regulation relating to the allocation of items of income and expense and to make the regulation easier to understand. Changes resulting from the enactment of the Louisiana Headquarters and Growth Act of 2005 are included. This regulation has not been revisited in depth since the corporate income tax statutes were enacted in 1986. This regulation will provide more guidance on the treatment of intangible assets than the current regulation.

## Title 61

### REVENUE AND TAXATION

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

#### Chapter 11. Income: Corporation Income Tax

#### §1130. Computation of Net Allocable Income from Louisiana Sources

A. Allocation of Items of Income and Loss. R.S. 47:287.93 provides that items of gross allocable income or loss shall be allocated directly to the state or states within which such items of income are earned or derived. The statute attributes every item of gross allocable income to a location and does not allow for any unallocated items of income. The principles embodied in the statute and this regulation are that items of allocable income from the use of tangible assets are allocated to the location of the tangible asset at the time of the use; income from the use of intangible assets is allocated to the business situs of the intangible asset, or in the absence of a business situs, to the commercial domicile of the corporation; and items of allocable income from services are allocated to the location at which the service was performed.

##### 1. Rents and Royalties from Immovable or Corporeal Movable Property

a. Rents and royalties from immovable or corporeal movable property shall be allocated to the state where such property is located at the time the income is derived.

b. Rents or royalties from incorporeal immovables, such as mineral interests, are allocated to the state in which the property subject to the interest is located.

##### 2. Interest from Controlled Corporation

a. Under the provisions of R.S. 47:287.738(F)(2), a corporation may elect to pay tax on interest income from a corporation that is controlled by the former through direct ownership of 50 percent or more of the voting stock of the latter.

b. The election is made for each taxable period by employing the method on the return or amended return.

c. If the election is made, interest from securities and credits that is received by the electing corporation from another corporation controlled by the former through the direct ownership of 50 percent or more of the voting stock of the latter, shall be allocated to the state or states in which the real and tangible personal property of the controlled corporation is located. The allocation shall be made on the basis of the ratio of the value of such property located in Louisiana to the value of such property within and without the state, as follows.

i. Real and tangible personal property includes all such property of the controlled corporation regardless of whether the property is idle or productive and regardless of the nature of the income that it produces.

ii. The value of Louisiana real and tangible property and real and tangible property within and without the state shall be the average value of such property at the beginning and close of the taxable period, determined on a comparable basis. If the average value does not fairly represent the average of the property owned during the year, the average value shall be obtained by dividing the sum of the monthly balances by the number of months in the taxable period.

##### iii. Value of Property to Be Used

(a). For purposes of this Subsection, the value of property to be used shall be determined using one of the following methods. The taxpayer will choose which valuation method to use on the first return filed following the effective date of this regulation on which a R.S. 47:287.738(F)(2) election is made by employing the chosen valuation method on the tax return. Once a valuation method is chosen, this valuation method must be used on all future returns upon which the R.S. 47:287.738(F)(2) election is made and cannot be changed without the approval of the secretary upon the showing of good cause:

(i). the value of property is cost to the taxpayer, less a reasonable reserve for depreciation, amortization, depletion, and obsolescence; or

(ii). the value of property is cost to the taxpayer, so long as the property continues to be used in the taxpayer's trade or business;

(iii). the value of property is the value reflected on the taxpayer's books, so long as the value is not below zero.

(b). The secretary may require a different method of valuation or adjust reserves if the method elected by the taxpayer does not reflect the fair value of the property.

##### 3. Royalties or Similar Revenue Received for the Use of Patents, Trademarks, Copyrights, Secret Processes, and Other Similar Intangible Rights

a. Royalties or similar revenue received for the use of patents, trademarks, copyrights, secret processes, and other similar intangible rights shall be allocated to the state or states in which such rights are used. The use referred to is that of the licensee rather than that of the licensor.

i. Example: X Company, Inc., a Delaware corporation with its commercial domicile in California, owns certain patents relating to the refining of crude oil, which at all times were kept in its safe in California. During 2006, the X Company, Inc. entered into an agreement with the Y Corporation whereby that company was given the right to use the patents at its refineries in consideration for the payment of a royalty based upon units of production. The Y Corporation used the patents exclusively at its Louisiana refinery and paid the X Company, Inc. the amount of \$100,000.00 for such use. The entire royalty income of \$100,000.00 is allocable to Louisiana.

ii. Example: ABC Company, Inc. is a trademark holding company incorporated in Delaware that owns certain trademarks relating to the sale of retail goods and/or services. In 2005, ABC entered into a licensing agreement with XYZ Retail Co. in which XYZ was authorized to use the trademark in exchange for consideration of royalty payments. In 2006, XYZ used the trademark to promote the sale of retail goods and/or services in Louisiana. The royalty payment attributable to the Louisiana stores was \$250,000. ABC must allocate the royalty income of \$250,000 to Louisiana.

b. Income from a mineral lease, royalty interest, oil payment, or other mineral interest shall be allocated to the state or states in which the property subject to such mineral interest is situated.

##### 4. Income from Construction, Repair, or Other Similar Services

a. Income from construction, repair, or other similar services is allocable to the state or states in which the work is done.

b. The phrase other similar services means any work that has as its purpose the improvement of immovable property belonging to a person other than the taxpayer where a substantial portion of such work is performed at the location of such property.

i. It is not necessary that the services rendered actually result in the improvement of the immovable property.

ii. Mineral Properties. For the purpose of this Section, mineral properties, whether under lease or not, constitute immovable properties. Thus, the drilling of a well on a mineral lease is considered to have as its purpose the improvement of such property notwithstanding the fact that the well may have been dry.

c. Examples of other similar services include, but are not limited to:

- i. landscaping services;
- ii. the painting of houses;
- iii. the removal of stumps from farmland; and
- iv. the demolition of buildings.

B. Deduction of Expenses, Losses and Other Deductions. From the total gross allocable income from all sources and from the gross allocable income allocated to Louisiana there shall be deducted all expenses, losses, and other deductions, except federal income taxes, allowable under the Louisiana income tax law that are directly attributable to such income plus a ratable portion of the allowable deductions, except federal income taxes, that are not directly attributable to any item or class of gross income.

#### 1. Interest Expense

a. The method of allocation and apportionment for interest set forth in these regulations is based on the approach that money is fungible and that interest expense is attributable to all activities and property regardless of any specific purpose for incurring an obligation on which interest is paid. Exceptions to the fungibility method are set forth in LAC 61:I.1130.B.1.b. The fungibility approach recognizes that all activities and property require funds and that management has a great deal of flexibility as to the source and use of funds and that the creditors of the taxpayer look to its general credit for repayment and thereby subject the money loaned to the risk of all of the taxpayer's activities. When money is borrowed for a specific purpose, such borrowing will free other funds for other purposes, and it is reasonable under this approach to attribute part of the cost of borrowing to such other purposes. Consistent with the principles of fungibility, except as otherwise provided, the aggregate of deductions for interest in all cases shall be considered related to all income producing activities and assets of the taxpayer and, thus, allocable to all the gross income that the assets of the taxpayer generate, have generated, or could reasonably have been expected to generate.

b. Exceptions to the fungibility method are allowed in the same circumstances that exceptions are allowed by IRC §861 and the regulations promulgated thereunder. These exceptions include:

i. the direct allocation of interest expense to the income generated by certain assets that are subject to qualified nonrecourse indebtedness;

ii. the direct allocation of interest expense to income generated by certain assets that are acquired in integrated financial transactions.

c. Interest Expense Applicable to Louisiana Gross Allocable Income. Interest expense that is applicable to assets that produce or that are held for the production of Louisiana gross allocable income shall be an item of deduction in determining net allocable income or loss from Louisiana.

i. Except as otherwise provided, the amount of interest that is applicable to such assets shall be determined by multiplying the amount of interest expense applicable to total allocable assets, determined without reference to the income limitation in the case of investments in U.S. government bonds and notes held as temporary cash investments, by a ratio, the numerator of which is the average value of assets that produce or that are held for the production of Louisiana allocable income and the denominator of which is the average value of assets that produce or that are held for the production of allocable income within and without Louisiana.

ii. When Louisiana net apportionable income is determined on the separate accounting method, refer to LAC 61:I.1132.C.2 for rules pertaining to the determination of the amount of interest expense applicable to Louisiana allocable income.

d. Interest Expense Applicable to Total Allocable Assets

i. Interest expense applicable to total allocable assets is interest expense that is applicable to assets that produce or that are held for the production of allocable income within and without Louisiana.

ii. When a R.S. 47:287.738(F)(2) election is made, assets that produce or that are held for the production of allocable income will include direct investments in 50 percent or more owned subsidiaries (other than normal trade accounts receivable) whether or not such investments, advances, or loans produce any income.

iii. The amount of interest that is applicable to assets producing or held for the production of allocable income shall be determined by multiplying the total amount of interest expense by a ratio, the numerator of which is the average value of assets that produce or that are held for the production of allocable income, and the denominator of which is the average value of all assets of the taxpayer.

iv. Although income exempt from Louisiana income tax, such as interest, is not taxable and is therefore not included in allocable income, the adjustment for the amount of interest expense applicable to assets producing such income is computed in the same manner as in the case of assets producing allocable income.

(a). For convenience of computation such assets are grouped with assets producing or held for the production of allocable income.

(b). Whenever interest expense applicable to U.S. government bonds and notes that are held as temporary cash investments determined as provided above, exceeds the



amount of income derived from such investments, the interest expense that is attributable to such investments shall be limited to the amount of income derived from such investments.

(c). The amount of interest expense applicable to U.S. government bonds and notes that are held as temporary cash investments, determined without reference to the income therefrom, is that portion of the interest expense applicable to assets that produce or that are held for the production of allocable income, that the ratio of the average value of U.S. government bonds and notes held as temporary cash investments bears to the average value of all assets that produce or that are held for the production of allocable income.

e. Investments in Stock of Controlled Corporations. When a corporation holds stock in corporations controlled by direct ownership of 50 percent or more of the voting stock of the latter, the stock shall be included in the numerator of the Louisiana interest expense computation as Louisiana assets based on the following allocation.

i. This stock is to be attributed as Louisiana assets on the basis of the proportion of the respective amounts of income upon which Louisiana income tax has been paid to all income, including exempt income, earned everywhere of the controlled corporation.

ii. Stock held in corporations exempt from Louisiana income tax shall not be included as a Louisiana asset for the purpose of this computation.

f. Loans to Controlled Corporations

i. When a R.S. 47:287.738(F)(2) election is made and the electing corporation loans interest-bearing funds to corporations controlled by direct ownership of 50 percent or more of the voting stock of the controlled corporation, the receivable shall be included in the numerator of the Louisiana interest expense computation as Louisiana assets based on the following allocation.

(a). These receivables are to be attributed as Louisiana assets on the basis of the ratio of the value of the controlled corporation's real and tangible personal property located in Louisiana to the value of such property within and without Louisiana.

(b). For the purpose of the allocation, real and tangible personal property includes all such property of the controlled corporation regardless of whether the property is idle or productive and regardless of the nature of the income that it produces.

ii. Receivables Resulting from Loans of Non-Interest Bearing Funds. When a R.S. 47:287.738(F)(2) election is made:

(a). receivables resulting from loans of non-interest bearing funds to controlled corporations are deemed to be assets producing or held for the production of allocable income for the purpose of determining the amount of interest expense applicable to assets that produce or that are held for the production of allocable income from sources within and without Louisiana;

(b). when receivables resulting from loans of non-interest bearing funds to controlled corporations have a Louisiana business situs, or, in the absence of a business situs, the lending corporation has a Louisiana commercial

domicile, such receivables shall not be included in the numerator of the interest expense allocation formula for the purpose of LAC 61:I.1130.B.1.c., unless the secretary, in order to clearly reflect Louisiana apportionable and allocable net income, imputes interest income on such receivables.

g. Average Value

i. Except as otherwise provided in this Section, average value shall mean the value at the beginning of the taxable period plus the value at the end of the taxable period, the sum of which is divided by two.

ii. If the average value as calculated above does not fairly represent the average of the property owned during the year, the average value shall be obtained by dividing the sum of the monthly balances by the number of months in the taxable period.

h. Value of Property to Be Used

i. For purposes of this Subsection, the value of property to be used shall be determined using one of the following methods. The taxpayer will elect which method to use on the first income tax return filed for the taxable period following the taxable period in which these regulations take effect by employing the elected method on the tax return. Once made, the election is irrevocable, without the approval of the secretary upon the showing of good cause:

(a). the value of property is cost to the taxpayer, less a reasonable reserve for depreciation, amortization, depletion, and obsolescence; or

(b). the value of property is cost to the taxpayer, so long as the property continues to be used in the taxpayer's trade or business; or

(c). the value of property is the value reflected on the taxpayer's books, so long as the value is not below zero.

ii. The secretary may require a different method of valuation or adjust reserves if the method elected by the taxpayer does not reflect the fair value of the property.

iii. Intangible assets that produce or that are held for the production of allocable income within and without Louisiana may acquire a business situs in more than one state. The percentage of the value of the asset that is to be attributed to Louisiana is a factual determination required to be made with respect to each asset and will take into consideration such factors as:

(a). the number of locations at which the asset is used;

(b). the number of days during the taxable period the asset is used within and without Louisiana;

(c). the amount of income that the asset generated within and without Louisiana; and

(d). the earning power of the asset at the time the interest expense is generated.

i. Examples. The following examples are applicable for both foreign and domestic corporations.

(a). Example 1. The XYZ Corporation has incurred interest expense in the amount of \$150,000.00 during the year 2006 and has not elected to treat interest income from 50 percent or more owned subsidiaries as taxable income. The subsidiary of XYZ Corporation earns no income in Louisiana. During 2006 XYZ Corporation derived total allocable and exempt income and Louisiana allocable income as follows:

	Louisiana	Total
*Interest from 80% owned Subsidiary	\$ -0-	\$ 10,000
*Interest (interest bearing checking)	-0-	5,000
Dividends	-0-	5,000
Net rent income	10,000	10,000
Trademark royalty income	<u>4,000</u>	<u>10,000</u>
Total	\$ <u>14,000</u>	\$ <u>40,000</u>

\*Exempt but included with allocable income only for convenience in computing the applicable expense.

(i). Its assets, liabilities, and net worth as of January 1, 2006, and December 31, 2006, were as follows:

	1-1-06		12-31-06	
<b>Assets:</b>				
Cash (currency on hand)	\$	10,000	\$	10,000
Cash (non-interest bearing checking)		90,000		140,000
Cash (interest bearing checking)		110,000		220,000
Accounts receivable		780,000		800,000
Inventories		600,000		1,000,000
Stocks – 80% owned subsidiary		100,000		100,000
Trademark		80,000		80,000
Loan to 80% owned subsidiary		310,000		430,000
Real estate (rental property)	\$	100,000	\$	100,000
Less depreciation reserve		<u>20,000</u>		<u>25,000</u>
Net		80,000		75,000
Real estate		5,000,000		5,125,000
Less depreciation reserve		<u>1,080,000</u>		<u>1,300,000</u>
Net		<u>3,920,000</u>		<u>3,825,000</u>
Total Assets	\$	<u><u>6,080,000</u></u>	\$	<u><u>6,680,000</u></u>
<b>Liabilities and Net Worth:</b>				
Accounts payable	\$	400,000	\$	1,000,000
Bonds		<u>3,000,000</u>		<u>3,000,000</u>
Total Liabilities	\$	3,400,000	\$	4,000,000
Capital stock	\$	2,080,000	\$	2,080,000
Earned surplus		<u>600,000</u>		<u>600,000</u>
Net worth	\$	2,680,000	\$	2,680,000
Total Liabilities and Net Worth	\$	<u><u>6,080,000</u></u>	\$	<u><u>6,680,000</u></u>

(ii). The amount of interest that is applicable to the assets that produce or are held for the

production of allocable or exempt income within and without Louisiana is \$18,633, determined as follows:

	Allocable Investments		Total Assets	
	1-1-06	12-31-06	1-1-06	12-31-06
Loan to 80% owned subsidiary	\$ 310,000	\$ 430,000	\$ 310,000	\$ 430,000
Cash (interest bearing checking)	\$ 110,000	220,000	110,000	220,000
Rental property (net)	80,000	75,000	80,000	75,000
Stock – 80% owned subsidiary	100,000	100,000	100,000	100,000
Trademark asset	80,000	80,000	80,000	80,000
Other assets	<u>0</u>	<u>0</u>	<u>5,400,000</u>	<u>5,775,000</u>
Totals	\$ 680,000	\$ 905,000	\$ 6,080,000	\$ 6,680,000
1-1-06 totals		<u>680,000</u>		<u>6,080,000</u>
Totals		\$ <u>1,585,000</u>		\$ <u>12,760,000</u>
Average		\$ <u>792,500</u>		\$ <u>6,380,000</u>
Ratio				.12422
Interest expense allocated to total allocable assets (.12422 x \$150,000)				\$ <u><u>18,633</u></u>

(iii). The amount of interest expense that is applicable to the assets that produce or are held for the production of Louisiana allocable income is \$2,668 determined as follows:

<b>Louisiana Allocable Assets:</b>	
January 1, 2006—Rental property	\$ 80,000
**January 1, 2006—Trademark asset	32,000
December 31, 2006—Rental property	75,000
**December 31, 2006—Trademark Asset	<u>40,000</u>
Total	\$ <u>227,000</u>
Average Louisiana allocable assets	\$ 113,500
Average total allocable assets	792,500
Ratio of Louisiana average to total average allocable assets	.14322
Interest expense attributed to total allocable or exempt assets	\$ 18,633

Interest expense allocated to Louisiana allocable assets (.14322 x \$18,633) \$ 2,668

\*\*For purposes of this example, it has been assumed that the ratio of trademark royalties for the prior month from Louisiana sources to total trademark royalties for the prior month is representative of the value of the asset attributable to Louisiana at balance sheet date. In December 2005, Louisiana trademark royalties were \$480 and total trademark royalties were \$1,200. In December 2006, Louisiana trademark royalties were \$550 and total trademark royalties were \$1,100.

(b). Example 2. Assume the same facts as Example 1 except that XYZ Corporation has elected under R.S.47:287.738(F)(2) to treat interest income from its 50 percent or more owned subsidiary as taxable allocable income. The ratio of the value of real and tangible personal

property of the controlled corporation located in Louisiana to the value of such property within and without Louisiana is 10 percent for both the beginning and ending balance sheets. Therefore, 10 percent of the interest from the subsidiary is allocated to Louisiana and 10 percent of the receivable is attributed to Louisiana. In addition, the ratio of the subsidiary's income earned within Louisiana upon which Louisiana income tax has been paid to income earned everywhere of the subsidiary in the prior and current years is five percent. Therefore 5 percent of XYZ's investment in the subsidiary is attributed to Louisiana. Example 1 would change as follows:

(i). Total allocable and exempt income and Louisiana allocable income would be:

	Louisiana	Total
*Interest from 80% owned Subsidiary	\$1,000	\$10,000
**Interest (interest bearing checking)	0	\$5,000
**Dividends	0	\$5,000
Net rent income	\$10,000	\$10,000
Trademark royalty income	\$4,000	\$10,000
Total	<u>\$15,000</u>	<u>\$40,000</u>

(ii). The amount of interest that is applicable to the assets that produce or are held for the production of allocable or exempt income within and without Louisiana remains \$18,633, calculated in the same manner. The only difference is that the loan to the subsidiary is now an allocable asset. The amount of interest expense that is applicable to the assets that produce or are held for the production of Louisiana allocable income or to the portion of the investment in a 50 percent or more owned subsidiary that has produced income that has been taxed by Louisiana is \$3,656 determined as follows:

Louisiana Allocable Assets:	
January 1, 2006—Rental property	\$ 80,000
January 1, 2006—Trademark asset	32,000
**January 1, 2006—Stock of subsidiary	5,000
January 1, 2006—Loan to subsidiary	31,000
December 31, 2006—Rental property	75,000
December 31, 2006—Trademark Asset	40,000
**December 31, 2006—Stock of subsidiary	5,000
December 31, 2006—Loan to subsidiary	43,000
Total	\$ 227,000
Average Louisiana allocable assets	\$ 155,500
Average total allocable assets	792,500
Ratio of Louisiana average to total average allocable assets	.19621
Interest expense attributed to total allocable or exempt assets	\$ 18,633
Interest expense attributed to Louisiana (.19621 x \$18,633)	<u>\$ 3,656</u>

\*Taxpayer has elected to be taxed on certain interest income.  
 \*\*Exempt but included only for convenience in computing the applicable expense.

## 2. Overhead Expense

a. Overhead Expense Attributable to Total Gross Allocable Income Derived from Rent of Immovable or Corporeal Movable Property or from Construction, Repair, or Other Similar Services

i. Overhead expense attributable to Louisiana gross allocable income derived from rent of immovable or corporeal movable property and from construction, repair, or other similar services shall be deducted from such income for the purposes of determining Louisiana net allocable

income or loss from such items of income. The amount of overhead expense attributable to such income shall be determined by multiplying overhead expense attributed to total gross allocable income derived from rent of immovable or corporeal movable property and from construction, repair, or other similar services by the arithmetical average of two ratios, as follows:

(a). the ratio of the amount of Louisiana gross allocable income derived from rent of immovable or corporeal movable property and from construction, repair, or other similar services to total gross allocable income from such sources;

(b). the ratio of the amount of direct cost incurred in the production of Louisiana gross allocable income derived from rent of immovable or corporeal movable property and from construction, repair, or other similar services to total direct cost incurred in the production of such income.

ii. Overhead expense attributable to total gross allocable income derived from rent of immovable or corporeal movable property or from construction, repair, or other similar services shall be deducted from such income for the purposes of determining total net allocable income or loss from such items of income. The amount of overhead expense attributable to such income shall be determined by multiplying total overhead expense by the arithmetical average of two ratios, as follows:

(a). the ratio of the amount of total gross allocable income derived from rent of immovable or corporeal movable property and from construction, repair, or other similar services to total gross income derived from all sources;

(b). the ratio of the amount of direct cost incurred in the production of total gross allocable income derived from rent of immovable or corporeal movable property and from construction, repair, or other similar services to total direct cost incurred in the production of gross income from all sources.

iii. If the taxpayer has not maintained documents or records sufficient to compute the ratios required by this Subparagraph, the secretary shall, upon examination, determine the method by which to attribute overhead expense.

b. Overhead Expense Attributable to All Other Items of Gross Allocable Income. Overhead expense attributable to items of gross allocable income derived from sources within and without Louisiana, except gross allocable income from rent of immovable or corporeal movable property or from construction, repair or other similar services, may be determined by any reasonable method that clearly reflects net allocable income from such items of income.

3. Generally, direct and indirect expenses, other than interest expenses, attributed to allocable income from foreign sources for federal purposes are deductible in arriving at total net allocable income. Expenses, other than interest expenses, sourced pursuant to federal law and regulations to allocable income from foreign sources are presumed to be actual expenses attributed to such income.

C. This regulation shall not restrict the authority of the secretary to adjust the allocation of items of income and expense when the secretary determines that such adjustments

are necessary in order to clearly reflect the taxpayer's Louisiana income.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.81, R.S. 47:287.92, R.S. 47:287.93, R.S. 47:287.785, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income Tax Section, LR 14:101 (February 1988), repromulgated by the Department of Revenue, Policy Services Division, LR 30:477 (March 2004), amended LR 32:410 (March 2006).

Cynthia Bridges  
Secretary

0603#028

## RULE

### Department of Revenue Policy Services Division

#### Corporation Franchise Tax—Allocation of Taxable Capital (LAC 61:I.306)

Under the authority of R.S. 47:606, 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, amends LAC 61:I.306 relative to the allocation of taxable capital.

This regulation updates the corporation franchise tax regulation relating to the changes to the general allocation formula resulting from the enactment of the Louisiana Headquarters and Growth Act of 2005, provides an example to clarify the attribution of revenue from sales transported by public carrier pipelines, and notifies taxpayers of changes in the secretary's interpretation of the attribution of revenue from sales of services.

### Title 61

### REVENUE AND TAXATION

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

#### Chapter 3. Corporation Franchise Tax §306. Allocation of Taxable Capital

A. General Allocation Formula. Every corporation subject to the corporation franchise tax must determine the extent to which its entire franchise taxable base is employed in the exercise of its franchise within this state. For all taxpayers other than those in the business of manufacturing, the extent of such use of total taxable base in the state is determined by multiplying the total taxable capital by the ratio obtained through the arithmetical average of the ratio of net sales made to customers in the regular course of business and other revenues attributable to Louisiana to total net sales made to customers in the regular course of business and total other revenues, and the ratio that the value of all of the taxpayer's property and assets situated or used by the taxpayer in Louisiana bears to all of the taxpayer's property and assets wherever situated or used. For taxpayers in the business of manufacturing, the extent of such use of total taxable base in the state is determined by multiplying the total taxable capital by the ratio of net sales made to customers in the regular course of business and other revenues attributable to Louisiana to total net sales made to

customers in the regular course of business and total other revenues.

1. Net Sales and Other Revenue. Net sales to be combined with other revenue in determining both the numerator and denominator of the revenue ratio for purposes of calculating the portion of the taxpayer's total taxable capital to be allocated to Louisiana are only those sales made to customers in the regular course of the taxpayer's business. In transactions in which raw materials, products, or merchandise are transferred to another party at one location in exchange for raw materials, products, or merchandise at another location in agreements requiring the subsequent replacement with similar property on a routine, continuing, or repeated basis, all such transactions shall be carefully analyzed to determine whether they constitute sales made to customers that should be included in the revenue ratio or whether they constitute exchanges that are not sales and should be excluded from the revenue ratio. Sales of scrap materials and by-products are construed to meet the requirements for inclusion in the revenue ratio. Sales made other than to customers, such as, but not limited to, sales of stocks, bonds, futures, options, derivatives, and other evidence of investment on the open market, regardless of the frequency or volume of those sales, shall not be included in the revenue ratio. Similarly, revenues and/or gains on the sale of property other than stock in trade shall not be included in the revenue ratio since they generally do not meet the specific requirements that only sales made to customers in the regular course of business of the taxpayer should be included. Whenever a transaction is not a sale to customers in the regular course of business, the amount does not constitute other revenue so as to qualify for inclusion in either the numerator or the denominator of the allocation ratio.

a. Sales attributable to Louisiana are those sales where the goods, merchandise, or property are received in Louisiana by the purchaser. Where goods are delivered into Louisiana by public carrier, or by other means of transportation, including transportation by the purchaser, the place at which the goods are ultimately received after all transportation has been completed shall be considered as the place at which the goods are received by the purchaser. The transportation in question is the initial transportation relating to the sale by the taxpayer.

i. Transportation by Taxpayer or by Public Carrier. Where the goods are delivered by the taxpayer in his own equipment, it is presumed that such transportation relates to the sale. Where the goods are delivered by a common or contract carrier, whether shipped F.O.B. shipping point and whether the carrier be a pipeline, trucking line, railroad, airline, or some other type of carrier, the place where the goods are ultimately received by the purchaser after the transportation incident to the sale has ended is deemed to be the place where the goods are received by the purchaser.

ii. Transportation by Purchaser

(a). Where the transportation involved is transportation by the purchaser, it is recognized that it is more difficult to determine whether or not the transportation is related to the sale by the taxpayer. To be related to the initial sale, the transportation should be commenced

immediately. However, before a lapse of time is conclusive, consideration must be given to the nature and character of the goods purchased, the availability of transportation, and other pertinent economic and natural circumstances occurring at the time.

(b). The intent of the parties to the sale must also be considered. The intent and purpose of the purchaser may be determined directly, or by an evaluation of the nature and scope of his operation, customs of the trade, customary activities of the purchaser, and all pertinent actions and words of the purchaser at the time of the sale.

(c). In order for the transportation by the purchaser to be related to the initial sale by the taxpayer to the purchaser, such transportation must be generally the same in nature and scope as that performed by the vendor or by a carrier. There is no difference between a case where a taxpayer in Houston ships F.O.B. Houston to a purchaser in Baton Rouge, by common carrier, and a case where all facts are the same except that the purchaser goes to Houston in his own vehicle and returns with the goods to Baton Rouge.

iii. Transportation of Natural Resources by a Public Carrier Pipeline. Generally, transportation by public carrier pipelines is accorded the same treatment as transportation by any other type of public carrier. However, because of the nature and character of the property, the type of carrier, and the customs of the trade, the natural resources in the pipeline may become intermixed with other natural resources in the pipeline and lose their particular identity. Where delivery is made to a purchaser in more than one state, or to different purchasers in different states, peculiar problems of attribution arise. In all cases possible, attribution will be made in accordance with the rules applicable to all public carrier transportation, that is, where it can be shown that a taxpayer in one state sold a quantity of crude oil to a purchaser in another state, and the oil was transported to the purchaser by public carrier pipeline, the sale will be attributed to the state where the crude oil is received by the purchaser, even though the crude oil delivered might not be the identical oil sold because of commingling in the pipeline. Custom of the trade indicates the purchaser buys a quantity of oil of certain quality, but not any specific oil.

iv. Storage of Property after Purchase

(a). In determining the place of receipt by the purchaser after the initial transportation has ended, peculiar problems may be created by the storage of the property purchased immediately upon purchase and at a place other than the place of intended use. The primary problem created by such storage is in determining whether or not the storage is of a temporary nature.

(b). In cases where the storage is permanent or semipermanent, delivery to the place of storage concludes the initial transportation, and the sale is attributed to the place of storage. However, where the storage is of a temporary nature, such as that necessitated by lack of transportation or by change from one means of transportation to another, or by natural conditions, the place of such storage is of no significance.

b. Revenue from Air Transportation. All revenues derived from the transportation of cargo or passengers by air shall be attributed within and without this state based on the point at which the cargo shipment or passenger journey originates.

c. Revenue from Transportation Other Than Air Travel. Revenue attributable to Louisiana from transportation other than air includes all such revenue derived entirely from sources within Louisiana plus a portion of revenue from transportation performed partly within and partly without Louisiana, based upon the ratio of the number of units of transportation service performed in Louisiana to the total of such units. Revenue from transportation exclusively without Louisiana shall not be included in the revenue attributed to Louisiana. Revenue attributable to Louisiana shall be computed separately for each of the four classes enumerated below.

i. A unit of transportation shall consist of the following:

(a). in the case of the transportation of passengers, the transportation of one passenger a distance of 1 mile;

(b). in the case of the transportation of liquid commodities, including petroleum or related products, the transportation of one barrel of the commodities a distance of 1 mile;

(c). in the case of the transportation of property other than liquids, the transportation of 1 ton of the property a distance of 1 mile;

(d). in the case of the transportation of natural gas, the transportation of 1 MCF or 1 MBTU a distance of 1 mile.

ii. In any case where another method would more clearly reflect the gross apportionable income attributable to Louisiana, or where the above information is not readily available from the taxpayer's records, the secretary, in his discretion, may permit or require the use of any method deemed reasonable by him.

iii. Example: ABC Corporation is in the business of transporting natural gas as a common carrier. During the year 2005, ABC entered into five transactions. In the first transaction 1 million MMCF was transported from Texas, through Louisiana, to Mississippi. The total distance transported was 500 miles, of which 200 miles was in Louisiana. The charge for the transportation was \$250,000.00. In the second transaction 1 million MMCF was transported from one point in Louisiana to another point in Louisiana, a distance of 150 miles, for a charge of \$150,000.00. In the third transaction 1 million MMCF was transported from one point in Texas to another point in Texas, a distance of 500 miles, for a charge of \$250,000.00. In the fourth transaction 1 million MMCF was transported from a point in Louisiana to a point in another state for a charge of \$500,000.00. The total distance transported was 1,000 miles, of which 100 miles were in Louisiana. In the fifth transaction 1 million MMCF was transported from a point in Louisiana to a point in another state for a charge of \$250,000.00. The distance transported was 500 miles, of

which 100 was in Louisiana. The portion of the gross apportionable income attributed to Louisiana would be computed as follows:

	Louisiana Amount
First Transaction— $200/500 \times \$250,000 =$	\$100,000
Second Transaction—entirely from Louisiana =	150,000
Third Transaction—neither entirely nor partially in Louisiana	-0-
Fourth Transaction— $100/1,000 \times \$500,000 =$	50,000
Fifth Transaction— $100/500 \times \$250,000 =$	50,000
Louisiana Income from Transportation of Natural Gas	\$350,000

d. Revenue from Services Other Than from Transportation

i. For purposes of R.S. 47:606(A), in addition to any other revenue attributed to Louisiana, the following revenue from providing telephone, telecommunications, and similar services shall be attributed to Louisiana:

(a). revenue derived from charges for providing telephone "access" from a location in this state. Access means that a call can be made or received from a point within this state. An example of this type of receipt is a monthly subscriber fee billed with reference to a service address located in the state and without regard to actual usage;

(b). revenue derived from charges for unlimited calling privileges, if the charges are billed by reference to a service address located in this state;

(c). revenue from intrastate telephone calls or other telecommunications, except for mobile telecommunication services, beginning and ending in Louisiana;

(d). revenue from interstate or international telephone calls or other telecommunications, except for mobile telecommunication services, either beginning or ending in Louisiana if the service address charged for the call or telecommunication is located in Louisiana, regardless of where the charges are billed or paid;

(e). revenue from mobile telecommunications service:

(i). revenue from mobile telecommunications services shall be attributed to the place of primary use, which is the residential or primary business street address of the customer;

(ii). if a customer receives multiple services, such as multiple telephone numbers, the place of primary use of each separate service shall determine where the revenue from that service is attributed;

(iii). revenue from mobile telecommunications services shall be attributed to Louisiana if the place of primary use of the service is Louisiana.

(f). Definitions. For the purpose of this Subparagraph, the following terms have the following meanings unless the context clearly indicates otherwise.

(i). *Call*—a specific telecommunications transmission.

(ii). *Customer*—any person or entity that contracts with a home service provider or the end user of the mobile telecommunications service if the end user is not the person or entity that contracts with the home service provider for mobile telecommunications service.

(iii). *Home Service Provider*—the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

(iv). *Place of Primary Use of Mobile Telecommunications Service*—the street address representative of where the customer's use of mobile telecommunications service primarily occurs. This address must be within the licensed service area of the home service provider and must be either the residential or the primary business street address of the customer. The home service provider shall be responsible for obtaining and maintaining the customer's place of primary use as prescribed by R.S. 47:301(14)(i)(ii)(bb)(XI).

(v). *Service Address*—the address where the telephone equipment is located and to which the telephone number is assigned.

(vi). *Telecommunications*—the electronic transmission, conveyance or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, by or through the use of any medium such as wires, cables, satellite, microwave, electromagnetic waves, light waves or any combination of those or similar media now in existence or that might be devised, by telecommunications does not include the information content of any such transmission.

(vii). *Telecommunication Service*—providing telecommunications including service provided by telecommunication service resellers, for a charge and includes telephone service, telegraph service, paging service, personal communication services and mobile or cellular telephone service, but does not include electronic information service or Internet access service.

ii. Revenue derived from services, other than from transportation, or telephone, telecommunications, and similar services, shall be attributed to the state in which the services are rendered. Services are rendered where they are received by the customer.

iii. In any case in which it can be shown that charges for services constitute a pure recovery of the cost of performing the services and do not include a reasonable rate of profit, amounts received in reimbursement of such costs shall not be construed to be revenues received and shall be omitted from both the numerator and denominator of the attribution ratio.

e. Rents and Royalties from Immovable or Corporeal Movable Property

i. Rents and royalties from immovable or corporeal movable property shall be attributed to the state where the property is located at the time the revenue is derived, which is construed to be the place at which the property is used resulting in the rental payment. Rents, royalties, and other income from mineral leases, royalty interests, oil payments, and other mineral interests shall be allocated to the state or states in which the property subject to such interest is located.

ii. In the case of movable property which is used in more than one state or when the lessor has no knowledge of where the property is located at all times, application of the general rule for attributing the revenue from rental of the property may be sufficiently difficult so as to require use of a formula or formulas to determine the place of use for

which the rents were paid. The specific formula to be used must be determined by reference to the basis on which rents are charged, the basis of which is usually set forth in the rental agreement. In those cases in which time of possession in the hands of the lessee is the only consideration in calculating rental charges, time used by the lessee in each state will be used as the basis for attributing the revenue to each state. Where miles traveled is the basis for the rental charge, revenue shall be attributed on that basis; where ton miles or traffic density in combination with miles traveled is the basis for the rental charges, revenue will be attributed to each state on that basis. In the case of drilling equipment where rentals are based on the number of feet drilled, income will be attributed to each state based on the ratio of the number of feet drilled within that state to the total number of feet drilled in all states by the rented equipment during the taxable period covered by the rental agreement.

f. Interest on Customers' Notes and Accounts

i. Interest on customers' notes and accounts can generally be associated directly with the specific credit instrument or account upon which the interest is paid and shall be attributed to the state at which the goods were received by the purchaser or services rendered. Interest is construed to include all charges made for the extension of credit, such as finance charges and carrying charges.

ii. When the records of the taxpayer are not sufficiently detailed so as to enable direct attribution of the revenue, interest, as defined herein, shall be attributed to each state on the basis of a formula or formulas which give due consideration to credit sales in the various states, outstanding customer accounts and notes receivable, and variances in the rates of interest charged or permitted to be charged in each of the states where the taxpayer makes credit sales.

g. Other Interest and Dividends

i. Interest, other than on customers' notes and accounts, and dividends shall be attributed to the state in which the securities producing such revenue have their situs, which shall be at the business situs of such securities if they have been so used in connection with the taxpayer's business as to acquire a business situs, or, in the absence of such a business situs, shall be at the commercial domicile of the taxpayer.

ii. Used in connection with the taxpayer's business is construed to mean use of a continuing nature in the regular course of business and does not include the mere holding of the instrument at a location or the use of the property as security for credit. Business situs must be established on the basis of facts, indicating precisely the use to which the securities have been put and the manner in which the taxpayer conducts its business.

iii. Commercial Domicile is in that state where management decisions are implemented which is presumed to be the state where the taxpayer conducts its principal business and thereby benefits from public facilities and protection provided by that state. The location of board of directors' meetings is not presumed to create commercial domicile at the location.

iv. Interest and dividends from a parent or subsidiary corporation shall be attributed as provided in R.S. 47:606(B) and the regulations issued thereunder.

h. Royalties or Similar Revenue from the Use of Patents, Trademarks, Secret Processes, and Other Similar Intangible Rights

i. Royalties or similar revenue received for the use of patents, trademarks, secret processes, and other similar intangible rights shall be attributed to the state or states in which such rights are used by the licensee from whom the income is received.

ii. In those cases where the rights are used by the licensee in more than one state, royalties and similar revenue will be attributed to the states on the basis of a ratio which gives due consideration to the proportion of use of the right by the licensee within each of the states. When the royalty is based on a measurable unit of production, sales, or other measurable unit, the attribution ratio shall be based on such units within each state to the total of such units for which the royalties were received. When the royalty or similar revenue is not based on measurable units, the attribution ratio will be based on the relative amounts of income produced by the licensee in each state or on such other ratio as will clearly reflect the proportion of use of the rights by the licensee in each state.

i. Revenue from a Parent or Subsidiary Corporation. Revenue from a parent or subsidiary corporation shall be allocated as provided in R.S. 47:606(B) and the regulations issued thereunder.

j. All Other Revenues

i. All revenues which are not specifically described in §306.A.1.a-i shall be attributed within and without Louisiana on the basis of such ratio or ratios as may be reasonably applicable to the type of revenue and business involved.

ii. In the case of revenue from construction, repairs, and similar services, generally, all of the work will be performed at a specific geographical location and the total revenue, including all billings by the taxpayer without regard to the method of reporting gain for purpose of the income tax statutes, shall be attributed to the place where the work is performed. In the case of contracts wherein a material part or parts of the work may have been performed in another state, such as the design, engineering, manufacture, fabrication, or preassembly of component parts, total revenue from the specific elements will be attributed to the place at which that segment of the work was performed on the basis of segregated charges contained in the performance contract. In the absence of segregated charges in the contract, revenues shall be allocated on the basis of a formula or formulas which give due consideration to such factors as direct cost, time devoted to the separate elements, and relative profitability of the specific function. Such ratios may be based on estimates of costs compiled during calculation of bid amounts for purposes of securing the contract in the absence of sufficient contract segregation of the charges between functions or sufficient records necessary to determine direct cost.

iii.(a). Revenues from partnerships shall be attributed within and without Louisiana based on the proportion of the partnership's capital employed in Louisiana. The proportion of the partnership's capital employed in Louisiana is the allocation ratio, also known as the franchise tax apportionment ratio, that would be

computed for the partnership if the partnership were a corporation subject to franchise tax.

(b). Revenues from a partnership are the partner's distributive share of partnership net income when the partner's distributive share of partnership net income is a positive amount. Losses from a partnership are not revenues from a partnership.

(c). Revenue from a partnership should be revenue from the partnership as reflected on the taxpayer's books. However, if there is no difference in the proportions of incomes, expenses, gains, losses, credits and other items accruing to the taxpayer from the partnership for book purposes and tax purposes the taxpayer may use tax basis revenue from a partnership. Once a taxpayer uses either book basis revenue or tax basis revenue, that basis must be used for all future tax periods.

iv. The term partnership includes a syndicate, group, pool, joint venture, limited liability company, or other unincorporated organization through or by means of which any business, financial operation, or venture is carried on.

2. Property and Assets. For the purpose of calculating the ratio of the value of property situated or used by a corporation in Louisiana to the value of all property wherever situated, both tangible and intangible property must be considered. The minimum value to be included in both the numerator and denominator is the value recorded on the books of the taxpayer. Both the cost recorded on the books of the corporation and the reserves applicable thereto are subject to examination and revision by the secretary when such revision is found to be necessary in order to reflect properly the extent to which capital of the corporation is employed in the exercise of its charter; in no event, however, shall the revision by the secretary to any asset value or applicable reserve result in a net valuation which exceeds actual cost of the asset to the taxpayer. Assets will be allocated as follows.

a. Cash on hand shall be allocated to the state in which the cash is physically located.

b. Cash in banks and temporary cash investments shall be allocated to the state in which they have their business situs if they have been so used as to have acquired a business situs. In the absence of a business situs for such assets, cash in banks and temporary cash investments shall be allocated to the state in which the commercial domicile of the taxpayer is located.

c. Trade accounts and trade notes receivable are construed to mean only those accounts and notes receivable resulting from the sale of merchandise or the performance of services for customers in the regular course of business of the taxpayer. Such accounts and notes shall be allocated to the location at which the merchandise was delivered or at which the services were performed resulting in the receivable. In the absence of sufficient recorded detail upon which to base the allocation of specific accounts and notes receivable to the various states, such accounts and notes may, by agreement between the secretary and the corporation, be allocated to the separate states based upon the ratio of credit sales within any particular state to the total of all credit sales.

d. Investments in and advances to a parent or subsidiary corporation shall be allocated as provided in R.S. 47:606(B) and the regulations issued thereunder.

e. Notes and accounts receivable other than temporary cash investments, trade notes and accounts, and advances to a parent or subsidiary, shall be allocated to the state in which they have their business situs if they have been so used as to have acquired a business situs. In the absence of a business situs for such assets, notes and accounts receivable other than temporary cash investments, trade notes and accounts, and advances to a parent or subsidiary shall be allocated to the state in which the commercial domicile of the taxpayer is located. See §306.A.1.g relative to business situs and commercial domicile.

f. Stocks and bonds other than temporary cash investments and investments in or advances to a parent or subsidiary corporation shall be allocated to the state in which they have their business situs if they have been so used as to have acquired a business situs. In the absence of a business situs for such assets, stocks and bonds other than temporary cash investments and advances to a parent or subsidiary corporation shall be allocated to the state in which the commercial domicile of the corporation is located.

g. Immovable property and corporeal movable property which is used entirely within a particular state shall be allocated to the state in which the property is located. Movable property which is not limited in use to any particular state shall be allocated among the states in which used on the basis of a ratio which gives due consideration to the extent of use in each of the states. For the purpose of determining the amount to be included in the numerator of the property ratio with respect to corporeal movable property used both within and without Louisiana, the following rules shall apply.

i. The value of diesel locomotives shall be allocated to Louisiana on the basis of the ratio of diesel locomotive miles traveled in Louisiana to total diesel locomotive miles.

ii. The value of other locomotives shall be allocated to Louisiana on the basis of the ratio of other locomotive miles traveled in Louisiana to total other locomotive miles.

iii. The value of freight train cars shall be allocated to Louisiana on the basis of the ratio of freight car miles traveled in Louisiana to total freight car miles.

iv. The value of railroad passenger cars shall be allocated to Louisiana on the basis of the ratio of passenger car miles traveled in Louisiana to total passenger car miles.

v. The value of passenger buses shall be allocated to Louisiana on the basis of the ratio of passenger bus miles traveled in Louisiana to total passenger bus miles.

vi. The value of diesel trucks shall be allocated to Louisiana on the basis of the ratio of diesel truck miles traveled in Louisiana to total diesel truck miles.

vii. The value of other trucks shall be allocated to Louisiana on the basis of the ratio of other truck miles traveled in Louisiana to total other truck miles.

viii. The value of trailers shall be allocated to Louisiana on the basis of the ratio of trailer miles traveled in Louisiana to total trailer miles.

ix. The value of towboats shall be allocated to Louisiana on the basis of the ratio of towboat miles traveled in Louisiana to total towboat miles. In the determination of Louisiana towboat miles, one-half of the mileage of



navigable rivers or streams bordering on both Louisiana and another state shall be considered Louisiana miles.

x. The value of tugs shall be allocated to Louisiana on the basis of the ratio of tug miles traveled in Louisiana to total tug miles. In the determination of Louisiana tug miles, one-half of the mileage of navigable rivers or streams bordering on both Louisiana and another state shall be considered Louisiana miles.

xi. The value of barges shall be allocated to Louisiana on the basis of the ratio of barge miles traveled in Louisiana to total barge miles. In the determination of Louisiana barge miles, one-half of the mileage of navigable rivers or streams bordering on both Louisiana and another state shall be considered Louisiana miles.

xii. The value of work and miscellaneous equipment shall be allocated to Louisiana in the following manner:

(a) in the case of a railroad, on the basis of the ratio of track miles in Louisiana to total track miles;

(b) in the case of truck and bus transportation, on the basis of the ratio of route miles operated in Louisiana to total route miles; and

(c) in the case of inland waterway transportation, on the basis of the ratio of bank miles in Louisiana to total bank miles. In the determination of bank mileage of navigable rivers or streams bordering on both Louisiana and another state, one-half of such mileage shall be considered Louisiana miles.

xiii. The value of other floating equipment shall be allocated to Louisiana on the basis of the ratio of operating equipment miles within Louisiana to total operating equipment miles for the particular equipment to be allocated. In the determination of Louisiana operating equipment miles, one-half of the mileage of navigable rivers or streams bordering on both Louisiana and another state shall be considered Louisiana miles.

xiv. The value of flight equipment shall be allocated to Louisiana on the basis of the ratio of ton miles flown within Louisiana to total ton miles. For the purpose of determining Louisiana ton miles, a passenger and his luggage shall be assigned a weight factor of 1/10 of 1 ton.

xv. The value of inventories of merchandise in transit shall be allocated to the state in which their delivery destination is located in the absence of conclusive evidence to the contrary.

xvi. All other corporeal movable property shall be allocated to Louisiana on the basis of such ratio or ratios as will reasonably reflect the extent of their use within this state. In any case where the information necessary to determine the prescribed ratio is not readily available from the taxpayer's records, the secretary may require the allocation of the value of the property on the basis of any method deemed reasonable by the secretary.

h. All other assets shall be allocated within or without Louisiana on such basis as may be reasonably applicable to the particular asset and the type of business involved. Investments in or advances to a partnership shall be attributed within and without Louisiana based on the proportion of the partnership's capital employed in Louisiana. The proportion of the partnership's capital

employed in Louisiana is the allocation ratio, also known as the franchise tax apportionment ratio, that would be computed for the partnership if the partnership were a corporation subject to franchise tax.

#### B. Allocation of Intercompany Items

1. Without regard to the legal or commercial domicile of a corporation subject to the corporation franchise tax, and without regard to the business situs of investments in or advances to a subsidiary or parent corporation by a corporation subject to the corporation franchise tax, all such investments in, advances to, and revenue from such parent or subsidiary shall be allocated to Louisiana on the basis of the percentage of capital employed in Louisiana by the parent or subsidiary corporation for franchise tax purposes. The corporation franchise tax ratio of the parent or subsidiary shall be the measure of the extent to which the investment in, advances to, and revenues from the parent or subsidiary are attributable to Louisiana for purposes of determining the revenue and property ratios to be used in allocating the total taxable base of any corporation subject to the corporation franchise tax.

2. A subsidiary corporation is any corporation the majority of the capital stock of which is actually, wholly, or substantially owned by another corporation and whose management, business policies, and operations are, howsoever, actually, wholly, or substantially controlled by another corporation. Such latter corporation shall be termed the parent corporation.

3. In general, the ownership, either directly or indirectly, of more than 50 percent of the voting stock of any corporation constitutes control of that corporation's management, business policies, and operations, whether such control is documented by formal directives from the owner of such stock or not.

4. Other criteria which will be construed to constitute control of the management, business policies, and operations of a corporation are:

a. the filing of a consolidated income tax return in which operations of the corporation are included with operations of the corporation owning more than 50 percent of its stock for purposes of determining its federal income tax liability, foreign tax credits, investment credits, other credits against its tax, and the alternative minimum tax; or

b. the requirement or policy that the purchase of a majority of the merchandise, equipment, supplies, or services required for operations be made from the corporation owning more than 50 percent of its stock, its designee, or from another corporation in which the owning corporation owns more than 50 percent of the stock; or

c. the requirement or policy that a majority of sales of merchandise, products, or service be made to the corporation owning more than 50 percent of its stock, its designee, or to another corporation in which the owning corporation owns more than 50 percent of the stock; or

d. the participation in a retirement, profit-sharing, or stock option plan administered by or participating in the profits or purchase of stock of the corporation owning more than 50 percent of its stock; or

e. the filing of reports with the Securities and Exchange Commission or other regulatory bodies in which its operations, assets, liabilities, and other financial

information are reflected as a part of similar information of the corporation owning more than 50 percent of its stock; or  
f. the presence on its board of directors of a majority of members who are directors, officers, or employees of the corporation owning more than 50 percent of its stock.

5. In the case of a corporation that owns more than 50 percent of a corporation, the burden of proving that control of the management, business policies, and operations of the latter does not exist shall rest with the taxpayer.

6. Accounts receivable which may be considered to be advances resulting from normal trading between the companies in the regular course of business and the sales of merchandise, products, or services in such transactions shall not be included in advances to or revenue from a parent or subsidiary under this provision, but shall be allocated and attributed as provided in R.S. 47:606(A) and the regulations issued thereunder.

C. Minimum Allocation; Assessed Value of Real and Personal Property. The minimum amount of taxable capital upon which the corporation franchise tax is calculated shall be the total assessed value of all real and personal property of a corporation in this state. Total assessed value is construed to be the value, after any and all exemptions, upon which the ad valorem tax is based. The assessed value to be used as the basis for the minimum tax calculation is the value upon which the ad valorem tax was calculated for the calendar year preceding the year in which the corporation franchise tax is due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:606.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income and Corporation Franchise Taxes Section, Office of Group III, LR 6:25 (January 1980), amended LR 11:108 (February 1985), repromulgated by the Department of Revenue, Policy Services Division, LR 30:453 (March 2004), amended LR 31:696 (March 2005), LR 32:415 (March 2006).

Cynthia Bridges  
Secretary

0603#027

## RULE

### Department of Revenue Policy Services Division

#### Determination of Louisiana Apportionment Percent (LAC 61:I.1134)

Under the authority of R.S. 47:287.95, R.S. 47:287.785, 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, amends LAC 61:I.1134 relative to the determination of the Louisiana apportionment percent.

The primary purpose of this regulation is to update the corporation income tax regulation relating to the changes in the determination of the apportionment percent resulting from the enactment of the Louisiana Headquarters and Growth Act of 2005. The regulation also provides an example to clarify the attribution of revenue from sales transported by public carrier pipelines.

## Title 61

### REVENUE AND TAXATION

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

#### Chapter 11. Income: Corporation Income Tax

#### §1134. Determination of Louisiana Apportionment Percent

A. General. R.S. 47:287.95 provides for an apportionment percent that is to be applied to the taxpayer's total net apportionable income in determining the Louisiana net apportionable income. Specific formulas are prescribed for air, pipeline, other transportation businesses, and certain service enterprises. A general formula is prescribed for manufacturing, merchandising and any other business for which a formula is not specifically prescribed. The statute contemplates that only one specific formula be used in determining the apportionment percent, that being the formula prescribed for the taxpayer's primary business. As a general rule, where a taxpayer is engaged in more than one business, the taxpayer's primary business shall be that which is the primary source of the taxpayer's net apportionable income. When the numerator and denominator are zero in any one or more ratios in the apportionment formula, such ratio shall be dropped from the apportionment formula and the arithmetical average determined from the total remaining ratios.

#### B. Property Ratio

1. The value of immovable and corporeal movable property owned by the taxpayer and used in the production of net apportionable income is included in each formula except those provided for certain service businesses and those using the single sales ratio under the general formula. Where only a part of the property is used in the production of apportionable income, only the value of that portion so used shall be included in the property ratio. However, where the entire property is used in the production of both allocable and apportionable income the value of the entire property shall be included in the property ratio. Idle property and property under construction, during such construction and prior to being placed in service, shall not be included in the property ratio. Property held as reserve or standby facilities, or property held as a reserve source of materials shall be considered used. For example, a taxpayer who purchases a lignite deposit that is held as a reserve source of fuel should include the value of such deposits in the property ratio. Non-productive mineral leases are considered to be held for such use and should be included in the property ratio. The value of inventories of merchandise in transit shall be allocated to the state in which their delivery destination is located in the absence of conclusive evidence to the contrary. R.S. 47:287.95(A)(1) provides that aircraft owned by a taxpayer whose net apportionable income is derived primarily from air transportation should not be included in the property ratio.

2. Proration of Rolling Stock and Other Mobile Equipment. The average value of rolling stock and other mobile equipment owned by the taxpayer shall be prorated within and without Louisiana as set forth below.

a. The value of diesel locomotives shall be allocated to Louisiana on the basis of the ratio of diesel locomotive miles in Louisiana to total diesel locomotive miles.

b. The value of other locomotives shall be allocated to Louisiana on the basis of the ratio of other locomotive miles in Louisiana to total other locomotive miles.

c. The value of freight train cars shall be allocated to Louisiana on the basis of the ratio of freight car miles in Louisiana to total freight car miles.

d. The value of passenger cars shall be allocated to Louisiana on the basis of the ratio of passenger car miles in Louisiana to total passenger car miles.

e. The value of passenger buses shall be allocated to Louisiana on the basis of the ratio of bus miles in Louisiana to total bus miles.

f. The value of diesel trucks shall be allocated to Louisiana on the basis of the ratio of diesel truck miles in Louisiana to total diesel truck miles.

g. The value of other trucks shall be allocated to Louisiana on the basis of the ratio of other truck miles in Louisiana to total other truck miles.

h. The value of trailers shall be allocated to Louisiana on the basis of the ratio of trailer miles in Louisiana to total trailer miles.

i. The value of towboats shall be allocated to Louisiana on the basis of the ratio of towboat miles in Louisiana to total towboat miles. In the determination of Louisiana towboat miles, one half of the mileage of all navigable rivers or streams bordering on both Louisiana and another state shall be considered Louisiana miles.

j. The value of tugs shall be allocated to Louisiana on the basis of the ratio of tug miles in Louisiana to total tug miles. In the determination of Louisiana tug miles, one half of the mileage of all navigable rivers or streams bordering on both Louisiana and another state shall be considered Louisiana miles.

k. The value of barges shall be allocated to Louisiana on the basis of the ratio of barge miles in Louisiana to total barge miles. In the determination of Louisiana barge miles, one half of the mileage of all navigable rivers or streams bordering on both Louisiana and another state shall be considered Louisiana miles.

l. The value of work and miscellaneous equipment shall be allocated to Louisiana on the basis of the ratio of track miles in Louisiana to total track miles in the case of a railroad, on the basis of the ratio of bank miles operated in Louisiana to total bank miles operated in the case of inland waterway transportation and on the basis of the ratio of route miles operated in Louisiana to total route miles operated in the case of truck and bus transportation. In the determination of bank miles, one half of the bank mileage of navigable rivers or streams bordering on both Louisiana and another state shall be considered Louisiana bank miles.

m. The value of other floating equipment shall be allocated to Louisiana on the basis of the ratio of operating equipment miles within Louisiana to the total operating equipment miles, for the particular equipment to be allocated. In the determination of Louisiana operating equipment miles, one half of the mileage of all navigable rivers or streams bordering on both Louisiana and another state shall be considered Louisiana operating equipment miles.

3. Insufficient Records. In any case where the information necessary to determine the ratios listed above is not readily available from the taxpayer's records, the

secretary, in his discretion, may permit or require the allocation of such equipment by any method deemed reasonable by him.

C. Wage Ratio. Salaries, wages and other compensation for personal services as used in R.S. 47:287.95 includes only compensation paid to employees or to a deferred plan for the benefit of employees of the taxpayer for services rendered in connection with the production of net apportionable income.

D. Revenue Ratio. This ratio is generally composed of sales, charges for service, and other gross apportionable income. Neither allocable income nor income excluded from gross income, such as interest and dividends, is included in the ratio. For all formulas except that provided by R.S. 47:287.95(F), the revenue ratio consists of the ratio of the gross apportionable income of the taxpayer from Louisiana sources to the total gross apportionable income of the taxpayer. For the formula provided by R.S. 47:287.95(F), the revenue ratio consists of the ratio of net sales made in the regular course of business and other gross apportionable income attributable to this state to the total net sales made in the regular course of business and other gross apportionable income of the taxpayer. Sales not made in the regular course of business are not included in the formula provided by R.S. 47:287.95(F).

1. Revenue from Transportation other than Air Travel. Gross apportionable income attributable to Louisiana from transportation other than air includes all such revenue derived entirely from sources within Louisiana plus a portion of revenue from transportation performed partly within and partly without Louisiana, based upon the ratio of the number of units of transportation service performed in Louisiana to the total of such units. Revenue from transportation exclusively without Louisiana shall not be included in gross apportionable income attributed to Louisiana. Gross apportionable income attributable to Louisiana shall be computed separately for each of the four classes enumerated below.

a. A unit of transportation shall consist of the following:

i. in the case of the transportation of passengers, the transportation of one passenger a distance of 1 mile;

ii. in the case of the transportation of liquid commodities, including petroleum or related products, the transportation of one barrel of the commodities a distance of 1 mile;

iii. in the case of the transportation of property other than liquids, the transportation of 1 ton of the property a distance of 1 mile;

iv. in the case of the transportation of natural gas, the transportation of one MCF or one MBTU a distance of 1 mile.

b. In any case where another method would more clearly reflect the gross apportionable income attributable to Louisiana, or where the above information is not readily available from the taxpayer's records, the secretary, in his discretion, may permit or require the use of any method deemed reasonable by him.

c. Example: ABC Corporation is in the business of transporting natural gas as a common carrier. During the year 2005, ABC entered into five transactions. In the first transaction 1 million MMCF was transported from Texas, through Louisiana, to Mississippi. The total distance

transported was 500 miles, of which 200 miles was in Louisiana. The charge for the transportation was \$250,000. In the second transaction 1 million MMCF was transported from one point in Louisiana to another point in Louisiana, a distance of 150 miles, for a charge of \$150,000. In the third transaction 1 million MMCF was transported from one point in Texas to another point in Texas, a distance of 500 miles, for a charge of \$250,000. In the fourth transaction 1 million MMCF was transported from a point in Louisiana to a point in another state for a charge of \$500,000. The total distance transported was 1,000 miles, of which 100 miles were in Louisiana. In the fifth transaction 1 million MMCF was transported from a point in Louisiana to a point in another state for a charge of \$250,000. The distance transported was 500 miles, of which 100 was in Louisiana. The portion of the gross apportionable income attributed to Louisiana would be computed as follows:

	Louisiana Amount
First Transaction— $200/500 \times \$250,000 =$	\$100,000
Second Transaction—entirely from Louisiana =	150,000
Third Transaction—neither entirely nor partially in Louisiana	-0-
Fourth Transaction— $100/1,000 \times \$500,000 =$	50,000
Fifth Transaction— $100/500 \times \$250,000 =$	<u>50,000</u>
Louisiana Income From Transportation of Natural Gas	\$350,000

## 2. Revenue from Telephone, Telecommunications, and Other Similar Services

a. Gross apportionable income attributable to Louisiana from providing telephone, telecommunications, and similar services shall include, but is not limited to:

i. revenue derived from charges for providing telephone "access" from a location in this state. "Access" means that a call can be made or received from a point within this state. An example of this type of receipt is a monthly subscriber fee billed with reference to a service address located in the state and without regard to actual usage;

ii. revenue derived from charges for unlimited calling privileges, if the charges are billed by reference to a service address located in this state;

iii. revenue from intrastate telephone calls or other telecommunications, except for mobile telecommunication services, beginning and ending in Louisiana;

iv. revenue from interstate or international telephone calls or other telecommunications, except for mobile telecommunication services, either beginning or ending in Louisiana if the service address charged for the call or telecommunication is located in Louisiana, regardless of where the charges are billed or paid;

v. revenue from mobile telecommunications service:

(a). revenue from mobile telecommunications services shall be attributed to the place of primary use, which is the residential or primary business street address of the customer;

(b). if a customer receives multiple services, such as multiple telephone numbers, the place of primary use of each separate service shall determine where the revenue from that service is attributed;

(c). revenue from mobile telecommunications services shall be attributed to Louisiana if the place of primary use of the service is Louisiana.

b. Definitions. For the purposes of this paragraph, the following terms have the following meanings unless the context clearly indicates otherwise.

i. *Call*—a specific telecommunications transmission.

ii. *Customer*—any person or entity that contracts with a home service provider or the end user of the mobile telecommunications service if the end user is not the person or entity that contracts with the home service provider for mobile telecommunications service.

iii. *Home Service Provider*—the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

iv. *Place of Primary Use of Mobile Telecommunications Service*—the street address representative of where the customer's use of mobile telecommunications service primarily occurs. This address must be within the licensed service area of the home service provider and must be either the residential or the primary business street address of the customer. The home service provider shall be responsible for obtaining and maintaining the customer's place of primary use as prescribed by R.S. 47:301(14)(i)(ii)(bb)(XI).

v. *Service Address*—the address where the telephone equipment is located and to which the telephone number is assigned.

vi. *Telecommunications*—the electronic transmission, conveyance or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, by or through the use of any medium such as wires, cables, satellite, microwave, electromagnetic waves, light waves or any combination of those or similar media now in existence or that might be devised, but telecommunications does not include the information content of any such transmission.

vii. *Telecommunications Service*—providing telecommunications, including service provided by telecommunication service resellers, for a charge and includes telephone service, telegraph service, paging service, personal communication services and mobile or cellular telephone service, but does not include electronic information service or Internet access service.

## 3. Attribution of Sales Made in the Regular Course of Business

a. Sales made in the regular course of business attributable to Louisiana under R.S. 47:287.95 are those sales where the goods, merchandise or property are received in Louisiana by the purchaser. Similarly, where the goods, merchandise or property are received in some other state, the sale is attributable to that state. Sales made in the regular course of business include all sales of goods, merchandise or product of the business or businesses of the taxpayer. They do not include the sale of property acquired for use in the production of income. Where a taxpayer under a contract performs essentially a management or supervision function and receives a reimbursement of his costs plus a stipulated amount, the amounts received as reimbursed costs are not sales although the contract so designates them. The stipulated amount constitutes other gross apportionable income and shall be attributed to the state where the contract was performed. Where goods are delivered into Louisiana by a public carrier, or by other means of transportation,

including transportation by the purchaser, the place at which the goods are ultimately received after all transportation has been completed shall be considered as the place at which the goods are received by the purchaser. The transportation in question is the initial transportation relating to the sale by the taxpayer, and not the transportation relating to a sale or subsequent use by the purchaser.

b. Where the goods are delivered by the seller in his own equipment, it is presumed that such transportation relates to the sale. Where the goods are delivered by a common or contract carrier, whether shipped F.O.B. shipping point, and whether the carrier be a pipeline, trucking line, railroad, airline or some other type of carrier, the place where the goods are ultimately received by the purchaser after the transportation by the carrier has ended is deemed to be the place where the goods are received by the purchaser.

c. Where the transportation involved is transportation by the purchaser, in determining whether or not the transportation relates to the sale by the taxpayer, consideration must be given to the following principles.

i. To be related to the initial sale, the transportation should be commenced immediately. However, before a lapse of time is conclusive, consideration must be given to the nature and character of the goods purchased, the availability of transportation, and other pertinent circumstances.

ii. The intent of the parties to the sale must also be considered. The intent and purpose of the purchaser may be determined directly, or by an evaluation of the nature and scope of his operation, customs of the trade, customary activities of the purchaser, and all pertinent actions and words of the purchaser at the time of the sale.

iii. In order for the transportation by the purchaser to be related to the initial sale by the taxpayer to the purchaser, such transportation must be generally the same in nature and scope as that performed by the taxpayer or by the carrier. There is no difference between a case where a taxpayer in Houston ships F.O.B., Houston, to a purchaser in Baton Rouge, by common carrier, and a case where all facts are the same except that the purchaser goes to Houston in his own vehicle and returns with the goods to Baton Rouge.

d. Generally, transportation by public carrier pipelines is accorded the same treatment as transportation by any other type of public carrier. However, because of the nature and character of the property, the type of carrier, and customs of the trade, the natural resources in the pipeline may become intermixed with other natural resources in the pipeline and lose their particular identity. Where delivery is made to a purchaser in more than one state, or to different purchasers in different states, peculiar problems of attribution arise. In solving such problems consideration must be given to the following principles.

i. Where it can be shown that a taxpayer in one state sold a quantity of crude oil to a purchaser in another state, and the oil was transported to the purchaser by pipeline carrier, the sale will be attributed to the state where the crude oil is received by the purchaser, even though the crude oil delivered might not be the identical oil sold because of commingling in the pipeline. Custom of the trade indicates the purchaser buys a quantity of oil of certain quality rather than any specific oil.

ii. In situations involving several deliveries in several different states to one or more purchasers, the general rules should be applied with logic and common sense.

e. In determining the place of receipt by the purchaser after the initial transportation has ended, peculiar problems may be created by the storage of the property purchased immediately upon purchase at a place other than the place of intended use. The primary problem created by such storage is in determining whether or not the transportation after storage relates to the sale by the taxpayer. Generally, the rules and principles set forth above will control where the storage is of temporary nature, such as that necessitated by lack of transportation, by change from one means of transportation to another, or by natural conditions. In cases where the storage is permanent or semi-permanent, delivery to the place of storage concludes the initial transportation, and the sale is attributed to the place of storage.

4. Attribution of Gains from Sales Not Made in the Regular Course of Business

a. The net profit from sales not made in the regular course of business shall be included in the ratios provided by R.S. 47:287.95(C) and (D).

b. The net profit from the sale of a mineral lease, royalty interest, oil payment, or other mineral interest shall be attributed to the state or states in which the property subject to such mineral interest is located.

c. The net profit from the sale of other intangibles shall be attributed to the state or states in which the intangible has acquired a business situs if the intangible has been so used in connection with a business as to acquire a business situs, or, in the absence of such a business situs, shall be at the commercial domicile of the taxpayer.

d. The net profit from the sale of the tangibles shall be attributed to the state or states in which the tangible is located at the time of sale.

5. Exchanges. In transactions in which raw materials, products, or merchandise are transferred to another party at one location in exchange for raw materials, products, or merchandise at another location in agreements requiring the subsequent replacement with similar property on a routine, continuing, or repeated basis, all such transactions shall be carefully analyzed in order to determine whether they constitute sales that should be included in the sales ratio or whether they constitute exchanges which are not sales and should be excluded from the sales ratio.

6. Recoveries and Reductions of Expense. Transactions that are actually recoveries of expenses or transactions that are part of a sequence of transactions for the purpose of managing risk, preventing loss, securing product, securing market or protecting profit shall not be considered gross apportionable income for purposes of determining the Louisiana apportionment percent. Examples of such transactions include, but are not limited to:

a. Corporation A rents retail space in a shopping mall. The glass in the front door of the shop has broken and Corporation A is unable to immediately contact the building owner. Corporation A has the glass replaced and is later reimbursed by the building owner. The reimbursement is not gross apportionable income for purposes of determining the Louisiana apportionment percent;

b. Corporation B buys and sells wheat. As part of securing a supply of wheat at the best possible price Corporation B will, when it believes prices will be rising in the future, purchase options to buy a fixed quantity of wheat at a fixed price on a fixed date in the future. At times market conditions will change subsequent to the purchase of an option and, believing that prices will fall and the wheat can be bought even cheaper than the option price in the future, the option will be sold. The amount received from the sale of the option is not gross apportionable income for purposes of determining the Louisiana apportionment percent. The amount received relates to the ultimate cost of goods sold;

c. Corporation C grows and sells wheat. It knows that at harvest it will have at least a certain amount of wheat that must be sold. To ensure a market for its wheat at harvest Corporation B buys options to sell fixed quantities of wheat at fixed prices at harvest time. At times market conditions will change subsequent to the purchase of an option and, believing that there will be sufficient buyers willing to pay a sufficient price at harvest time, the option will be sold. The amount received from the sale of the option is not gross apportionable income for purposes of determining the Louisiana apportionment percent. The amount received relates to marketing expenses;

d. Corporation D grows, buys and sells wheat. To manage market risk in its business Corporation D engages in complex, sophisticated transactions involving options, futures contracts and various derivative contracts. Any amounts received in the course of these risk management transactions are not gross apportionable income for the purposes of determining the Louisiana apportionment percent. The amounts received relate to insurance expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.95, R.S. 47:287.785, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income Tax Section, LR 14:105 (February 1988), repromulgated by the Department of Revenue, Policy Services Division, LR 30:482 (March 2004), amended LR 31:694 (March 2005), LR 32:421 (March 2005).

Cynthia Bridges  
Secretary

0603#079

## RULE

### Department of Revenue Tax Commission

#### Ad Valorem Taxation

(LAC 61:V.101, 103, 203, 205, 211, 301, 304, 309,  
703, 705, 907, 1103, 1307, 1501, 1503, 2503, 3101,  
3103, 3105, 3307, 3501, 3503, and 3507)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950, et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission intends to adopt, amend and/or repeal Sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 2006 (2007 Orleans Parish) tax year.

This Rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 2006. Cost indexes required to finalize these assessment tables are not available to this office until late October 2005. The effective date of this Rule was January 1, 2006, owing to its emergency status as published on page 3044 of the *Louisiana Register*, Vol. 31, No. 12, December 2005.

## Title 61

### REVENUE AND TAXATION

#### Part V. Ad Valorem Taxation

#### Chapter 1. Constitutional and Statutory Guides to Property Taxation

#### §101. Constitutional Principles for Property Taxation

A. - E. ...

#### F. Special Assessment Level

1. The assessment of residential property receiving the homestead exemption which is owned and occupied by any person or persons 65 years of age or older and who meet all of the other requirements of this Section shall not be increased above the total assessment of that property for the first year that the owner qualifies for and receives the special assessment level.

2. Any person or persons shall be prohibited from receiving the special assessment as provided in this Section if such person's or persons' adjusted gross income, as reported in the federal tax return for the year prior to the application for the special assessment, exceeds \$58,531 for tax year 2006 (2007 Orleans Parish). For persons applying for the special assessment whose filing status is married filing separately, the adjusted gross income for purposes of this Section shall be determined by combining the adjusted gross income on both federal tax returns.

3. An eligible owner shall apply for the special assessment level by filing a signed application establishing that the owner qualifies for the special assessment level with the assessor of the parish or, in the parish of Orleans, the assessor of the district where the property is located.

4. The special assessment level shall remain on the property as long as:

a. that owner, or that owner's surviving spouse who is 55 years of age or older or who has minor children, remains the owner of the property; and

b. the value of the property does not increase more than 25 percent because of construction or reconstruction.

5. A new or subsequent owner of the property may claim a special assessment level when eligible under this Section. The new owner is not necessarily entitled to the same special assessment level on the property as when that property was owned by the previous owner.

6. The special assessment level on property that is sold shall automatically expire on the last day of December in the year prior to the year that the property is sold. The property shall be immediately revalued at fair market value by the assessor and shall be assessed by the assessor on the assessment rolls in the year it was sold.

7. A usufructuary is entitled to the benefit of the special assessment level attained by the prior owner/occupant, provided that either:

a. the usufructuary is the owner's surviving spouse, occupying the house, who is 55 years of age or older or who has minor children, and the value of the property does not increase more than 25 percent because of construction or reconstruction; or

b. the usufructuary is the immediate prior owner of the homestead and the homestead is occupied by such usufructuary. A usufructuary is entitled to the special assessment level freeze if and when he or she qualifies independently.

8. As to whether one can enjoy the special assessment level in a trust situation, the Louisiana Tax Commission interprets La. Const. Article VII, Section 18(G). The special assessment level is permitted to remain on property otherwise qualified for the special assessment level when title to the property is transferred to an irrevocable trust established for the benefit of a surviving spouse, who is 55 years of age or older, or who has minor children, provided the spouse occupies the property and the value of the property does not increase more than 25 percent because of construction or reconstruction.

9. The special assessment level, like the homestead exemption, should be applied to the extent of a homeowner's undivided interest in the occupied property.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March 1998), LR 26:506 (March 2000), LR 31:700 (March 2005), LR 32:425 (March 2006).

### §103. Exempt Property

A. In addition to the homestead exemption provided for in Section 20 of Article VII of the constitution, the following property and no other shall be exempt from ad valorem taxation:

1. ...

2. property of a nonprofit corporation or association organized and operated exclusively for religious, dedicated places of burial, charitable, health, welfare, fraternal, or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or member and which is declared to be exempt from federal or state income tax;

3. property of a bona fide labor organization representing its members or affiliates in collective bargaining efforts; and

4. property of an organization such as a lodge or club organized for charitable and fraternal purposes and practicing the same, and property of a nonprofit corporation devoted to promoting trade, travel, and commerce, and also property of a trade, business, industry or professional society or association, if that property is owned by a nonprofit corporation or association. The exemption should be allowed only if it is determined that the requesting organization has met all of the constitutional requirements for exemption. Assessors may request the following information from the taxpayer in order to make a determination of exemption:

a. completed LTC Application for Exemption—Real Estate Taxes;

b. certified copy of the articles of incorporation of the organization;

c. certified copy of the by-laws of the organization;

d. copy of the Internal Revenue Service letter granting the organization tax-exempt status;

e. audited financial statements for the preceding three years, along with an affidavit from the organization's CPA and/or treasurer that the financial statements are true and correct;

f. federal tax returns filed for the preceding three years; and

g. affidavit from the president or other duly appointed officer stating:

i. the price paid for each share of stock issued by the organization for the past five years;

ii. whether or not over the previous five years any dividends have been paid or interest accrued on the value of the stock of the organization; and

iii. whether or not any part of the net earnings of the organization inure to the benefit of any member of the organization.

A.5. - G. ...

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §21.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 15:1097 (December 1989), LR 17:1213 (December 1991), amended by the Department of Revenue, Tax Commission, LR 24:478 (March 1998), LR 32:426 (March 2006).

## Chapter 2. Policies and Procedures for Assessment and Change Order Practices

### §203. Change Orders

#### A. General Provision

1. Assessors' offices shall submit to the LTC, change orders to correct errors and omissions in the tax rolls of the appropriate parish.

2. A change shall be submitted via LTC website ([www.latax.state.la.us](http://www.latax.state.la.us)).

3. - 4. ...

5. Change order batches should not exceed a total of 50 change order requests, in order to facilitate speedy transmission.

6. ...

7. All change order requests should be submitted to the LTC no later than Thursday noon of each week.

8. All change order requests shall be reviewed by LTC staff for approval or denial by the commission at their regularly scheduled Open Meetings.

9. All change order requests via the Louisiana Tax Commission (LTC) website filing shall be subject to the provisions of Title 47, Sections 1835, 1966, 1990, and/or 1991.

#### B. Form of the Change Orders

1. - 2. ...

3. LTC website change order system requests shall comply with the Louisiana State Tax Commission Electronic Change Order Export Specifications. These specifications can be found on the LTC website at [www.latax.state.la.us](http://www.latax.state.la.us).

a. ...

b. All export data submitted to the LTC shall require utilization of the standard format currently posted on the LTC's website. Any parish that imports an individual parish change order data batch into the LTC's website must adhere to the LTC's format specifications.

- B.3.c. - D.1.e. ...
  - f. Special Assessment (over 65) Freeze Land: Improvement:
  - g. - s. ...
  - t. Public Property—Property donated or sold to a bona fide exempt public entity. Donation or Sale Date:
  - u. ...
  - v. Redemption—Removed from adjudication roll.
- Date Redeemed:
- w. Redemption—Taxpayer redeemed from tax sale.
- Date Redeemed:
- D.1.x. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, Section 20. (A)(1); R.S. 47:1703, R.S. 47:1703A., R.S. 47:1703.1.B., R.S. 47:1835, R.S. 47:1837, R.S. 47:1952, R.S. 47:1966, R.S. 47:1990, and R.S. 47:1991.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:700 (March 2005), amended LR 32:426 (March 2006).

**§205. Property Not Entitled to Homestead Exemption Repealed.**

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, Sections 20 and 21, Section 20(A)(1) and Section 20(A)(2), LTC Title 61, Chapter 35, Rule 3503.A.2.c. and Rule 3503.D.8., R.S. 47:1837, R.S. 47:2301, R.S. 47:2302, R.S. 47:2303, R.S. 47:2307, and R.S. 47:2307.C(2).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:701 March 2005), repealed LR 32:427 (March 2006).

**§211. Industrial Exemption Properties**

A. - B. ...

1. If an assessor determines that any portion of an Industrial Exemption is not eligible for ad valorem tax exemption, pursuant to Article VII, Section 21(F) of the Louisiana Constitution of 1974 and rules of the Industrial

Tax Exemption Program, notice shall immediately be submitted to DED, with written ineligibility reasons given.

2. - 4. ...

5. Assessors are urged to obtain rules for the Industrial Tax Exemption Program available at <http://www.lded.state.la.us/businessresources/pdf/TYRules.pdf> or by contacting DED's Business Incentives Division.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, Section 21(F).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:702 (March 2005), amended LR 32:427 (March 2006).

**Chapter 3. Real and Personal Property §301. Definitions**

\* \* \*

*Fair Market Value*—the price for property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances; it shall be the highest price estimated in terms of money which property will bring if exposed for sale on the open market with reasonable time allowed to find a purchaser who is buying with knowledge of all the uses and purposes to which the property is best adopted and for which it can be legally used.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1853 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:77 (February 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 10:16 (January 1984), LR 13:763 (December 1987), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 32:427 (March 2006).

**§304. Electronic Change Order Specifications, Property Classifications Standards and Electronic Tax Roll Export Specifications**

A. ...

**B. Property Classifications Standards**

Item	Class Code	Class Description (Tc-33)	Sub-Class Code	Sub-Class Description (Grand Recap)	Class Definition
<b>Real Estate</b>					
* * *					
			3020	Marsh Acreage (Market Value)	Marsh land 3 Acres or more in area valued at Market level since a Use Value classification has not been filed with the Assessor's Office.
			3022	Lake Servitude Lands (Market Value)	Lake Servitude land containing 3 Acres or more in area valued at Market level since a Use Value Classification has not been filed with the Assessor's Office.
			3024	Batture Land (Market Value)	Batture land containing 3 Acres or more in area valued at Market level since a Use Value classification has not been filed with the Assessor's Office.
* * *					
			3220	Marsh Acreage (Market Value)	Marsh land more than 1 Acre but less than 3 Acres in area valued at Market Value since Use Value Form has not been filed with the Assessor's Office.
			3222	Lake Servitude Lands (Market Value)	Lake Servitude Land containing more than 1 Acre but less than 3 Acres in area valued at Market Value since Use Value Form has not been filed with the Assessor's Office.
			3224	Batture Lands (Market Value)	Batture Land containing more than 1 Acre but less than 3 Acres in area valued at Market Value since Use Value Form has nor been filed with the Assessor's Office.
* * *					



Item	Class Code	Class Description (Tc-33)	Sub-Class Code	Sub-Class Description (Grand Recap)	Class Definition
			3640	Institutional Non-Subdivision Lot	Institutional Acreage less than 3 Acres in size used by government, schools or churches (Market Value)
	37	No Land Value	3700	No Land Value (Leased Property)	Land leased by tenant for placement of Manufactured Homes (Mobile Home/Trailer) or Leasehold Improvements. (This land class could be used for condominiums where land value is part of the improvement value.)
* * *					
	45	Improvements Commercial Or Industrial	4560	Shed and Farm Buildings	Includes Utility Buildings; Equipment Buildings; Golf Cart Buildings; Boat Storage Buildings and Sheds; Shed Office Structures; Materials Storage Buildings; Bulk Oil Storage Buildings; Toolsheds; Prefabricated Sheds; Lumber Storage, Vertical Buildings; and Horizontal Sheds; Potato Storage Buildings; Fruit Packing Barns; Bulk Fertilizer Storage; Bag Fertilizer Storage; Seed Warehouses; Cotton Gin Buildings; Dehydrator Buildings; Dairies; Milk Houses; Barns; Free Stall Barns; Barn Lofts; Hog Barns and Sheds; Sheep Barns and Sheds; Tobacco Barns; Stables; Arenas; Poultry Houses; Greenhouses; Labor Dormitories; Transient Labor Cabins; Corn Cribs; Farm Silos; Grain Handling Systems; Grain Elevators; Livestock, Hay and Sun Shelters; Enclosed and Screened Cages; Poultry Floor Operation, Breeder, Broiler and Turkey Barns; Sheds, Cattle, Loafing and Feeding; Environmental Storages; Controlled Atmosphere Buildings; Shop Buildings and Sheds.
			4570	Schools and Classrooms	Elementary, Middle, High, Alternative, Vocational Schools; Day Care Centers; Colleges and Universities; Classroom Buildings; Special Education or Learning Classrooms; Laboratory Classrooms; Lecture Classrooms; Administrative Buildings; Academic Libraries; Fine Arts Buildings; Manual Arts and College Technical Trades Buildings; Multipurpose Buildings; Bookstores; Gymnasiums; Physical Education Buildings; Fieldhouses; Natatoriums; Shower Buildings; Restroom Buildings; Commercial or Institutional Greenhouses; and Maintenance Buildings.
			4590	Old Residences (Historical)	Includes older residences that have classified as antique or historical in nature.
* * *					
<b>Personal Property-Section A</b>					
	52	Business Furniture & Fixtures	5200	Business Furniture & Fixtures	Office Furniture and Equipment.
	53	Miscellaneous Personal Property	5300	Computer Hardware/Software	Includes Computer Hardware, Software, Computer network equipment, printers, etc.
			5310	Electronics	Includes Electronic Typewriters, Copy Machines, Postage Machines, etc.
			5320	Leasehold Improvements	Includes all Leasehold Improvements being expensed by tenant of rental property.
			5330	Telecommunications Equipment	Includes all telephone systems, telephone switching equipment not Public Service.
			5340	Cell Towers	Includes Cell Towers and related equipment not part of Public Service.
			5350	Video Poker Machines	Includes Video Poker Machines, Slot Machines and other gambling related equipment.
* * *					
<b>Personal Property-Section B</b>					
	66	Drilling Rigs	6600	Drilling Rigs	Drilling Rigs and related equipment.
	68	Oil and Gas Wells	6800	Oil Wells	Oil Wells, Abandon Wells, Orphan Wells, Plug Wells
			6801	Future Utility	Future Utility
			6802	Non Future Utility	Non Future Utility
			6810	Gas Wells	Gas Wells
			6811	Future	Future
			6812	Non Future	Non Future
			6820	Injection Wells Service Wells	Injection Wells, Service Wells, Saltwater Disposal, Brine Wells, Water Wells
			6830	Commercial Disposal Wells	Commercial Disposal Wells
* * *					

Item	Class Code	Class Description (Tc-33)	Sub-Class Code	Sub-Class Description (Grand Recap)	Class Definition
<b>Exempt Property</b>					
	70	Commerce And Industry Exemptions	7000	Buildings	Includes Buildings currently under Commerce & Industry Exemptions.
		Ten Year Exemptions	7010	Machinery & Equipment	Includes Machinery & Equipment currently under a Commerce & Industry Exemption.
			7020	Furniture & Fixtures	Includes Furniture & Fixtures currently under a Commerce & Industry Exemption.
			7030	Leased Equipment	Includes Leased Equipment currently under a Commerce & Industry Exemption.
			7040	Side Tracks	Includes Side Tracks currently under a Commerce & Industry Exemption.
			7050	Miscellaneous Personal Property	Includes Miscellaneous Personal Property currently under a Commerce & Industry Exemption.
			7060	Water Tanks	Includes Water Tanks currently under a Commerce & Industry Exemption.
	71	Institutional Exempt Property	7100	Governmental Buildings	Includes any buildings owned by local, state and federal government agencies.
			7110	Educational Buildings	Includes any buildings owned by public school districts, colleges, community colleges, technical colleges, universities, etc.
			7120	Churches & Religious Buildings	Includes churches, sanctuaries, fellowship halls, classrooms, etc.
			7130	Agricultural Buildings	Includes all agricultural facilities such as farm buildings, barns, stables, sheds, etc.
			7140	Furniture & Fixtures	Includes Furniture & Fixtures currently owned by tax exempt institutions.
			7150	Leased Equipment	Includes Leased Equipment currently used by tax exempt institutions.
			7160	Miscellaneous Personal Property	Includes any personal property owned by tax exempt institutions.
	72	Exempt Land	7200	Land	Exempt Land
<b>Total Exempt Property</b>					
<b>Public Service</b>					
	80	Airline Companies	8000	Aircraft	Commercial Airline Companies' aircraft assessed by the Louisiana Tax Commission.
			8010	Ground Equipment	Commercial Airline Companies' ground equipment assessed by the Louisiana Tax Commission.
	81	Barge Line Companies	8100	Barge Lines	Barge Line Companies' assets assessed by the Louisiana Tax Commission.
	82	Electric, Gas & Water Companies	8200	Lines	Electric, Gas and Water Companies' lines assessed by the Louisiana Tax Commission.
			8210	Land	Electric, Gas and Water Companies' land assessed by the Louisiana Tax Commission.
			8220	Improvements	Electric, Gas and Water Companies' improvements assessed by the Louisiana Tax Commission.
			8230	Machinery & Equipment	Electric, Gas and Water Companies' machinery and equipment assessed by the Louisiana Tax Commission.
			8240	Construction Work In Progress	Electric, Gas and Water Companies' construction work in progress assessed by the Louisiana Tax Commission.
			8250	Other	Electric, Gas and Water Companies' other miscellaneous equipment assessed by the Louisiana Tax Commission.
	83	Pipeline Companies	8300	Lines	Pipeline Companies' pipelines assessed by the Louisiana Tax Commission.
			8310	Oil & Gas Storage	Pipeline Companies' oil and gas storage tanks assessed by the Louisiana Tax Commission.
			8320	Machinery & Equipment	Pipeline Companies' machinery and equipment assessed by the Louisiana Tax Commission.
			8330	Land	Pipeline Companies' land assessed by the Louisiana Tax Commission.
			8340	Right of Ways	Pipeline Companies' right of ways assessed by the Louisiana Tax Commission.
			8350	Open Access	Pipeline Companies' open access assessed by the Louisiana Tax Commission.
			8360	Improvements	Pipeline Companies' improvements assessed by the Louisiana Tax Commission.
			8370	Construction Work In Progress	Pipeline Companies' construction work in progress assessed by the Louisiana Tax Commission.
			8380	Other	Pipeline Companies' other miscellaneous equipment assessed by the Louisiana Tax Commission.

Item	Class Code	Class Description (Tc-33)	Sub-Class Code	Sub-Class Description (Grand Recap)	Class Definition
	84	Private Car Line Companies	8400	Private Car Lines	Private Car Line Company assets assessed by the Louisiana Tax Commission.
	85	Railroad Companies	8500	Main Lines	Railroad Companies' main lines assessed by the Louisiana Tax Commission.
			8510	Second Lines	Railroad Companies' secondary lines assessed by the Louisiana Tax Commission.
			8520	Side Lines	Railroad Companies' side lines assessed by the Louisiana Tax Commission.
			8530	Land	Railroad Companies' land assessed by the Louisiana Tax Commission.
			8540	Improvements	Railroad Companies' improvements assessed by the Louisiana Tax Commission.
			8550	Other	Railroad Companies' other miscellaneous equipment assessed by the Louisiana Tax Commission.
			8560	Rolling Stock	Railroad Companies' rolling stock assessed by the Louisiana Tax Commission.
	86	Telephone Companies	8600	Lines	Telephone Companies' lines assessed by the Louisiana Tax Commission.
			8610	Land	Telephone Companies' land assessed by the Louisiana Tax Commission.
			8620	Improvements	Telephone Companies' improvements assessed by the Louisiana Tax Commission.
			8630	Machinery & Equipment	Telephone Companies' machinery and equipment assessed by the Louisiana Tax Commission.
			8640	Construction Work In Progress	Telephone Companies' construction work in progress assessed by the Louisiana Tax Commission.
			8650	Other	Telephone Companies' other miscellaneous equipment assessed by the Louisiana Tax Commission.
<b>Adjudicated Property</b>					
	90	Adjudicated	9000	Land	Adjudicated Land
			9100	Improvements	Adjudicated Improvements
			9200	Other	Other Adjudicated Property
<b>Total Adjudicated Property</b>					
<b>Grand Total</b>					

C. ...

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:703 (March 2005), amended LR 32:427 (March 2006).

### §309. Tax Commission Miscellaneous Forms

A. - E. ...

F. TC Form 65, Application For Special Assessment Level, should be used by certain eligible persons, 65 years of age or older, to apply for the special assessment level in accordance with R.S. 47:1712. This form is publicly available on the Louisiana Tax Commission's official website at [www.latax.state.la.us](http://www.latax.state.la.us).

G. TC Form 75, Homestead Exemption Affidavit shall be used by those persons who may be eligible for the Homestead Exemption pursuant to §3505 of these rules. This form is publicly available on the Louisiana Tax Commission's official website at [www.latax.state.la.us](http://www.latax.state.la.us).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1712, R.S. 47:1835, R.S. 47:1837, R.S. 47:1966, R.S. 47:1990, R.S. 47:1991 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 21:186 (February 1995), amended LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 27:424 (March 2001), LR 28:517 (March 2002), LR 30:487 (March 2004), LR 32:430 (March 2006).

## Chapter 7. Watercraft

### §703. Tables—Watercraft

#### A. Floating Equipment—Motor Vessels

Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2005	0.979	1	94	.92
2004	1.052	2	87	.92
2003	1.089	3	80	.87
2002	1.107	4	73	.81
2001	1.114	5	66	.74
2000	1.123	6	58	.65
1999	1.144	7	50	.57
1998	1.147	8	43	.49
1997	1.157	9	36	.42
1996	1.176	10	29	.34
1995	1.194	11	24	.29
1994	1.237	12	22	.27
1993	1.271	13	20	.25

#### B. Floating Equipment—Barges (Non-Motorized)

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index Average		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2005	0.979	1	97	.95
2004	1.052	2	93	.98

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index Average		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2003	1.089	3	90	.98
2002	1.107	4	86	.95
2001	1.114	5	82	.91
2000	1.123	6	78	.88
1999	1.144	7	74	.85
1998	1.147	8	70	.80
1997	1.157	9	65	.75
1996	1.176	10	60	.71
1995	1.194	11	55	.66
1994	1.237	12	50	.62
1993	1.271	13	45	.57
1992	1.296	14	40	.52
1991	1.312	15	35	.46
1990	1.338	16	31	.41
1989	1.374	17	27	.37
1988	1.448	18	24	.35
1987	1.509	19	22	.33
1986	1.531	20	21	.32
1985	1.546	21	20	.31

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:487 (March 2004), LR 31:715 (March 2005), LR 32:430 (March 2006).

**§705. Tables—Watercraft**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:716 (March 2005), repealed LR 32:431 (March 2006).

**Chapter 9. Oil and Gas Properties**

**§907. Tables—Oil and Gas**

A. - B.1. ...

2. Serial Number to Percent Good Conversion Chart

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	25 Year Life Percent Good
2005	230643	Higher	96
2004	229010	230642	92
2003	227742	229009	88
2002	226717	227741	84
2001	225352	226716	80
2000	223899	225351	76
1999	222882	223898	72
1998	221596	222881	68
1997	220034	221595	64
1996	218653	220033	60
1995	217588	218652	56
1994	216475	217587	52
1993	215326	216474	48

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	25 Year Life Percent Good
1992	214190	215325	44
1991	212881	214189	40
1990	211174	212880	36
1989	209484	211173	32
1988	207633	209483	28
1987	205211	207632	24
1986	Lower	205210	20*
VAR.	900000	Higher	50

\*Reflects residual or floor rate.

NOTE: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

B.3. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006).

**Chapter 11. Drilling Rigs and Related Equipment  
§1103. Drilling Rigs and Related Equipment Tables**

A. Land Rigs

Table 1103.A Land Rigs		
Depth "0" to 7,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
3,000	552,300	82,800
4,000	610,300	91,500
5,000	708,100	106,200
6,000	846,000	126,900
7,000	1,023,700	153,600
Depth 8,000 to 10,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
8,000	1,241,400	186,200
9,000	1,499,100	224,900
10,000	1,796,600	269,500
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
11,000	2,134,200	320,100
12,000	2,511,600	376,700
13,000	2,929,000	439,400
14,000	3,386,300	507,900
15,000	3,883,600	582,500
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
16,000	4,420,800	663,100
17,000	4,997,900	749,700
18,000	5,615,000	842,300
19,000	6,272,000	940,800
20,000	6,969,000	1,045,400

Depth 21,000 + Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
21,000	7,705,900	1,155,900
25,000 +	8,533,700	1,280,100

B. Jack-Ups

Table 1103.B Jack-Ups			
Type	Water Depth Rating	Fair Market Value	Assessment
IC	0-199 FT.	\$ 20,000,000	\$ 3,000,000
	200-299 FT.	35,000,000	5,250,000
* * *			
MC	300-Up FT.	\$ 40,000,000	\$ 6,000,000

IC - Independent Leg Cantilever  
 IS - Independent Leg Slot  
 MC - Mat Cantilever  
 MS - Mat Slot

C. Submersible Rigs

Table 1103.C Semisubmersible Rigs		
Water Depth Rating	Fair Market Value	Assessment
0 - 800 FT.	45,700,000	6,855,000
801 - 1,800 FT.	81,875,000	12,281,300
* * *		

NOTE: The fair market values and assessed values indicated by these tables are based on the current market (sales) appraisal approach and not the cost approach.

D. Well Service Rigs Land Only (Good Condition)

Table 1103.D Well Service Rigs Land Only (Good Condition)				
Class	Mast	Engine	Fair Market Value	Assessment
I	72' X 125M#	6V71	190,750	28,615
	75' X 150M#			
II	96' X 150M#	8V71	253,750	38,100
	96' X 180M#			
	96' X 185M#			
	96' X 205M#			
	96' X 210M#			
	96' X 212M#			
	96' X 215M#			
III	96' X 240M#	8V92	306,250	45,950
	96' X 250M#			
	96' X 260M#			
	102' X 215M#			
IV	102' X 224M#	12V71	339,150	50,875
	102' X 250M#			
	103' X 225M#			
	103' X 250M#			
	104' X 250M#			
	105' X 225M#			
	105' X 250M#			
V	105' X 280M#	12V71	356,125	53,400
	106' X 250M#	12V92		
	108' X 250M#			
	108' X 260M#			
	108' X 268M#			
	108' X 270M#			
108' X 300M#				
VI	110' X 250M#	12V71 (2) 8V92	417,550	62,600
	110' X 275M#			
	112' X 300M#			
	112' X 350M#			

Table 1103.D Well Service Rigs Land Only (Good Condition)				
Class	Mast	Engine	Fair Market Value	Assessment
VII	117' X 215M#	(2) 8V92	517,125	77,600
		(2) 12V71		

Note: These tables assume complete rigs in good condition. If it is documented to the assessor that any rig is incomplete or is in less than good condition, these amounts should be adjusted.

E. - E.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006).

Chapter 13. Pipelines

§1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines Onshore

Table 1307.A Current Costs for Other Pipelines Onshore		
Diameter (inches)	Cost Per Mile	15% of Cost Per Mile
2	\$ 126,540	\$ 18,980
4	147,410	22,110
6	171,710	25,760
8	200,010	30,000
10	232,990	34,950
12	271,400	40,710
14	316,140	47,420
16	368,260	55,240
18	428,970	64,350
20	499,690	74,950
22	582,070	87,310
24	678,030	101,700
26	789,800	118,470
28	920,010	138,000
30	1,071,680	160,750
32	1,248,360	187,250
34	1,454,160	218,120
36	1,693,890	254,080
38	1,973,150	295,970
40	2,298,440	344,770
42	2,677,350	401,600
44	3,118,740	467,810
46	3,632,890	544,930
48	4,231,810	634,770

Note: Excludes river and canal crossings.

B. Current Costs for Other Pipelines Offshore

Table 1307.B Current Costs for Other Pipelines Offshore		
Diameter (inches)	Cost Per Mile	15% of Cost Per Mile
6	\$ 915,990	\$ 137,400
8	931,400	139,710
10	953,890	143,080
12	983,450	147,520
14	1,020,080	153,010
16	1,063,780	159,570

Table 1307.B Current Costs for Other Pipelines Offshore		
Diameter (inches)	Cost Per Mile	15% of Cost Per Mile
18	1,114,560	167,180
20	1,172,410	175,860
22	1,237,320	185,600
24	1,309,310	196,400
26	1,388,380	208,260
28	1,474,510	221,180
30	1,567,720	235,160
32	1,667,990	250,200
34	1,775,340	266,300
36	1,889,760	283,460
38	2,011,260	301,690
40	2,139,820	320,970
42	2,275,460	341,320
44	2,418,170	362,730
46	2,567,950	385,190
48	2,724,800	408,720

C. Pipeline Transportation Allowance for Physical Deterioration (Depreciation)

Table 1307.C Pipeline Transportation Allowance for Physical Deterioration (Depreciation)	
Actual Age	Percent Good
1	96
2	92
3	88
4	84
5	80
6	76
7	72
8	68
9	64
10	60
11	56
12	52
13	48
14	44
15	40
16	36
17	32
18	28
19	24
20 and older	20*

\* Reflects residual or floor rate.  
Note: See §1305.G (page PL-3) for method of recognizing economic obsolescence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:426 (March 2001), LR 31:719 (March 2005), LR 32:432 (March 2006).

**Chapter 15. Aircraft**  
**§1501. Guidelines for Ascertaining the Fair Market Value of Aircraft**

A. - A.4. ...

B. Valuation When Using the Cost Approach. Fair market value is the valuation standard for aircraft. The assessor shall estimate the fair market value of each aircraft

having situs in his parish through use of the information provided him on LAT Form 15. The same procedure shall be used as for other forms of machinery and equipment. That is, the original cost of the aircraft will be brought up to current value through use of the appropriate cost index, percent good factors and composite multipliers appearing in Table 1503.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1952, R.S. 47:2323, R.S. 47:2326, R.S. 47:6001 and R.S. 47:1707.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:942 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 19:212 (February 1993), LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 32:433 (March 2006).

**§1503. Aircraft (Including Helicopters) Table**

A. Aircraft (Including Helicopters)

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (10 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2005	0.979	1	92	.90
2004	1.052	2	84	.88
2003	1.089	3	76	.83
2002	1.107	4	67	.74
2001	1.114	5	58	.65
2000	1.123	6	49	.55
1999	1.144	7	39	.45
1998	1.147	8	30	.34
1997	1.157	9	24	.28
1996	1.176	10	21	.25
1995	1.194	11	20	.24

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006).

**Chapter 25. General Business Assets**

**§2503. Tables Ascertain Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property**

A. ...

Table 2503.A Business Activity/Type of Equipment	Average Economic Life in Years
***	
All Terrain Vehicles	10
***	
Amusement Devices (Music, Pinball Mach., etc.)	12
Video Games	3
Video Poker Gaming Equipment	5

Table 2503.A Business Activity/Type of Equipment		Average Economic Life in Years
Inflatable Air Bouncers		5
* * *		
Auto Repair		10
Paint Booths		15
* * *		
Banks		
Automatic Teller Machines (ATM's)		8
Furniture and Fixtures		12
Safety Deposit Boxes		25
Encoders		10
* * *		
Barber and Beauty Shops		10
Tanning Beds		10
* * *		
Coolers (water)		3
Water Bottles (5 gallon)		10
* * *		
Modular Office Buildings (portable)		15
* * *		
Rental Equipment		
Public U-Rent (except heavy equipment)		8
Tuxedos		5
Linens		3
* * *		
Signs		
Bulletin Boards		15
Billboards		15
Neon		10
Plastic Illuminated		10
Poster Panels		15
Electronic Three-sided Billboard		10
* * *		
Storage Buildings (portable)		10
* * *		
Telecommunications Equipment (electronic)		8
Fiber Optic Cable (buiired)		15
Fiber Optic Cable (exposed)		8
* * *		

B. Cost Indices

Table 2503.B Percent Good			
Year	Age	National Average 1926 = 100	January 1, 2005 = 100*
2005	1	1244.5	0.979
2004	2	1157.3	1.052
2003	3	1118.6	1.089
2002	4	1100.0	1.107
2001	5	1093.4	1.114
2000	6	1084.3	1.123
1999	7	1065.0	1.144
1998	8	1061.8	1.147
1997	9	1052.7	1.157
1996	10	1036.0	1.176
1995	11	1020.4	1.194
1994	12	985.0	1.237
1993	13	958.0	1.271
1992	14	939.8	1.296
1991	15	928.5	1.312
1990	16	910.2	1.338
1989	17	886.5	1.374
1988	18	841.4	1.448
1987	19	806.9	1.509
1986	20	795.4	1.531
1985	21	787.9	1.546
1984	22	776.4	1.569
1983	23	755.8	1.612
1982	24	742.4	1.641
1981	25	709.2	1.717
1980	26	642.8	1.895

\*Reappraisal Date: January 1, 2005 – 1218.0 (Base Year)

C. ...

D. Composite Multipliers (2005 Orleans Parish)

Table 2503.D Composite Multipliers 2006 (2007 Orleans Parish)								
Age	3 Years	5 Years	8 Years	10 Years	12 Years	15 Years	20 Years	25 Years
1	.69	.83	.88	.90	.92	.93	.95	.96
2	.52	.73	.83	.88	.92	.95	.98	1.00
3	.37	.57	.73	.83	.87	.93	.98	1.01
4	.18	.38	.60	.74	.81	.87	.95	1.00
5		.26	.48	.65	.74	.81	.91	.97
6		.20	.37	.55	.65	.76	.88	.94
7			.30	.45	.57	.71	.85	.93
8			.25	.34	.49	.63	.80	.89
9			.23	.28	.42	.57	.75	.87
10				.25	.34	.51	.71	.83
11				.24	.29	.44	.66	.81
12					.27	.38	.62	.79
13					.25	.33	.57	.76
14						.30	.52	.73
15						.28	.46	.68
16						.27	.41	.64
17							.37	.60
18							.35	.56
19							.33	.51
20							.32	.46

Table 2503.D Composite Multipliers 2006 (2007 Orleans Parish)								
Age	3 Years	5 Years	8 Years	10 Years	12 Years	15 Years	20 Years	25 Years
21							.31	.43
22								.41
23								.39
24								.33
25								.34
26								.38

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006).

**Chapter 31. Public Exposure of Assessments; Appeals**  
**§3101. Public Exposure of Assessments, Appeals to the Board of Review and Board of Review Hearings**

A. Assessment lists shall be open for public inspection each year for a period of 15 days, beginning no earlier than August 15 and ending no later than September 15, except in Orleans Parish, where the lists shall be open for public inspection August 1-August 15.

B. Each assessor shall publish the dates, time and place of the public exposure of the assessment lists of both real and personal property in a newspaper of general circulation in their respective parishes. Notice shall be published at least twice within a period of not sooner than 21 days nor later than seven days prior to the fifteenth calendar day period of exposure.

C. ...

D. Each assessor will make any determined changes to the assessment list during the public exposure period, and shall certify the assessment lists to the parish Board of Review within three business days of the final exposure date. The Orleans Parish Assessors shall certify their assessment lists to the Board of Review on or before the tenth business day after August 15.

E. Each assessor shall publish two notices of the parish's Board of Review appeal hearing dates in the local newspaper within a period of 21 and 7 days prior to the actual hearing date(s). Each assessor shall then notify the Tax Commission in writing of the Board of Review hearing date(s) and shall provide the commission with an affidavit executed by the local paper demonstrating proof of publication.

F. The Parish Police Jury or Parish Council shall sit as the Board of Review. The Board of Review shall convene hearings within 10 days of its receipt of the certified rolls. The Board of Review shall conduct hearings for all persons or their representatives desiring to be heard on the assessments of immovable and movable property. On the fifteenth day after the Board of Review shall have

commenced the public hearings, the assessment lists, together with any changes in connection therewith, shall be certified and sent to the Tax Commission within three days, R.S. 47:1992.

G. The Board of Review has the authority to increase or decrease the assessment of immovable or movable property made by the assessor in accordance with the fair market or use value determination by the board. The validity of each assessment shall be determined on its own merits using recognized appraisal techniques, R.S. 47:1992(C).

H. In Orleans Parish, the procedure for review of assessments shall be as follows.

1. Each assessor shall prepare and make up the lists showing the assessment of immovable and movable property in and for his district; the lists shall be exposed daily, except Saturday, Sunday and legal holidays, for inspection by the taxpayers and other interested persons during the period August 1 through August 15 of each year unless August 15 falls on a weekend or a legal holiday, when the period shall extend until the next business day. Each assessor shall give notice of such exposure for inspection in accordance with rules and regulations established by the Louisiana Tax Commission. On or before the tenth business day after August 15, the assessors shall certify their rolls to the Board of Review.

2. The Board of Review shall consider all written complaints which have been filed in compliance with the following procedure.

a. The complaint form provided by the board, through the office of the assessor, must be completed in conformity with the requirements of the Board of Review.

b. The complaint form must be received in the assessor's office within three business days after the last date on which the lists are exposed.

c. The form must be forwarded by the assessor and received by the Board of Review within seven business days after the last date on which the lists are exposed.

d. The taxpayer must have timely filed the reports as required by R.S. 47:2301 et seq. and R.S. 47:2321 et seq.

3. The Board of Review shall convene hearings on or before September 15. The board may create one or more hearing officers, any one of whom shall be a member of the Board of Review and who may conduct all required public hearings of the board with or without the presence of the other members, provided that no final action may be taken by such Board of Review unless a quorum is present. The board may make a determination to increase or decrease the assessment of real or personal property made by the assessor in accordance with the fair market or use valuation determined by the board.

4. The Board of Review shall certify the assessment list to the Louisiana Tax Commission on or before October 20 of each year.



I. The Board of Review, during its public hearing(s), shall have copies of the Louisiana Tax Commission appeal rules and regulations and Appeal Form 3103.A available for any assessor and/or taxpayer desiring to further appeal to the Tax Commission.

J. The Board of Review shall provide each appellant taxpayer with a written notice of their particular appeal determination with a copy submitted to the assessor and the Tax Commission on or before the certification of the assessment list to the Tax Commission.

K. The determination of the Board of Review shall be final unless appealed, in writing, to the Tax Commission within 10 business days after notice of the determination is postmarked or is delivered by hand to the taxpayer and/or to the assessor. Either or both parties may appeal the Board of Review decision to the Tax Commission.

Your request for review will be heard on the \_\_\_ day of \_\_\_\_\_ 20\_\_ at \_\_\_\_\_ M. at \_\_\_\_\_ Company, Street Address, including Room Number

AUTHORITY NOTE: Promulgated in accordance with LSA-Constitution of 1974, Article VII, §18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 25:319 (February 1999), LR 26:512 (March 2000), LR 30:492 (March 2004), LR 32:435 (March 2006).

**§3103. Appeals to the Louisiana Tax Commission**

A. The Louisiana Constitution provides that the correctness of assessments made by an assessor will be subject to review first by the parish governing authority, then by the Louisiana Tax Commission, and finally by the courts, all in accordance with procedures established by law. La. Const. Article VII, Section 18(E).

B. An appeal to the Louisiana Tax Commission shall be filed with the commission within 10 business days after the Board of Review's written decision is postmarked or delivered by hand. In order to institute a proceeding before the commission, the taxpayer or assessor shall file Form 3103.A and, if applicable, Form 3103.B. The assessor shall confirm, in writing, to the Tax Commission that the Board of Review has issued a written determination to each taxpayer and to the assessor's office in the format required by §3101(J).

C. All initial filings to the Louisiana Tax Commission shall be filed with the Office of General Counsel. They shall be deemed filed only when actually received, in proper form. All filings shall be in the form of an original and seven copies.

D. In addition to the initial filing of Forms 3103.A and 3103.B, the taxpayer or assessor appealing the Board of Review decision shall attach a pleading containing the following, with a copy to the assessor or taxpayer, at least 10 days prior to the scheduled appeal hearings:

1. name under which the property is assessed;
2. description of the property;
3. determination of the Board of Review;
4. a prayer stating the type of relief, action or order desired by the pleader;
5. a list of exhibits presented to the Board of Review;
6. a list of witnesses who may be called, with a brief description of the anticipated testimony of the witness;
7. anticipated time needed to present the case; and,
8. an appraisal report using one or more of the three recognized appraisal techniques or other appropriate evidence concerning the fair market value of property.

E. Upon written notice by the commission, the parties and/or their attorneys or other representatives may be directed to meet and confer together by telephone or otherwise prior to the hearing, for the purpose of formulating issues and considering:

1. simplification of issues;
2. a limitation, where possible of the number of witnesses;
3. the time required for presentations;
4. stipulations as to admissibility of exhibits;

**Form 3101**

**Exhibit A**

**Appeal to Board of Review by Taxpayer  
for Real and Personal Property**

Name: \_\_\_\_\_ Parish/District: \_\_\_\_\_  
Taxpayer

Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

Ward: \_\_\_\_\_ Assessment/Tax Bill Number: \_\_\_\_\_

Address or Legal Description of Property Being Appealed. (Also, please identify building by place of business for convenience of appraisal.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I hereby request the review of the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my reports (if personal property) as required by law, and I have reviewed my assessment with my assessor.

The assessor has determined Fair Market Value of this property at:  
Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

I am requesting that the Fair Market Value of this property be fixed at:  
Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

The assessor has determined assessment of this property at:  
Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

I am requesting that the assessment of this property be fixed at:  
Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

\*NOTE: Report personal property on Improvement line above.

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time. I understand that I must provide the Board of Review with evidence of fair market value to support my claim.

I feel that the Fair Market Value of this property as of January 1, 20\_\_\_\_, the official reappraisal valuation date on which assessments are currently based, was:

Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

Please notify me of the date, place and time of my appeal at the address shown below.

NOTE: If appellant disputes Board of Review's decision, appellant may appeal to La. Tax Commission by completing and submitting Appeal Form 3103.A to LTC within 10 days of postal date of BOR's written determination. For further information, call LTC at (225) 925-7830

Appellant  
(Taxpayer/Taxpayer's Rep./Assessor)

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone No. \_\_\_\_\_

\_\_\_\_\_

Date of Appeal

- 5. submission of proposed findings of fact;
- 6. such other matters as may aid in the simplification of the proceedings and the disposition of the matters in controversy.

F. Actions requested and agreed upon at the conference shall be recorded in an appropriate statement by the party, which has initiated the appeal to the commission. The statement shall be filed with the commission seven days prior to the scheduled hearing before the commission. In the event of a disagreement over any item discussed at the conference, the statement filed with the commission shall state the specific item as to which there is disagreement together with a brief summary of the nature of the disagreement.

G. Upon written notice by the commission, the parties or their attorneys or other representative may be directed to file legal memorandums with the commission 15 days prior to the hearing. The legal memorandum shall address in a concise manner the legal issues presented in the appeal to the commission together with a statement of any legal authority supporting the party's position.

H. Any party with leave of the commission or hearing officer may present prepared sworn deposition testimony of a witness either narrative or in question and answer form, which shall be incorporated into the record as if read by a witness. The opposing party will be allowed to cross-examine and/or submit any sworn testimony given by the witness in the deposition. Seven copies of the prepared deposition testimony shall be filed with the commission.

I. Any taxpayer or assessor may appear and be represented by an attorney at law authorized to practice law before the highest court of any state; a natural person may appear in his own behalf, or through an attorney or other representative; or a corporation, partnership or association may appear and be represented to appear before the commission by a bona fide officer, partner, full time employee, or any other person duly authorized as provided for on "Exhibit B, Appointment of Taxpayer Agent in Louisiana Tax Commission Ad Valorem Tax Appeal" (Form 3103.B).

J. Every taxpayer or assessor, witness, attorney or other representative shall conduct himself in all proceedings with proper dignity, courtesy and respect. Disorderly conduct will not be tolerated. Attorneys shall observe and practice the standards of ethical behavior prescribed for attorneys at law by the Louisiana Bar Association. Any taxpayer or assessor, witness, attorney or other representative may be excluded by the commission from any hearing for such period and upon such conditions as are just for violation of this rule.

K. All official hearings conducted in any proceeding shall be open to the public. All hearings shall be held in Baton Rouge, LA, unless the commission shall designate another place of hearing.

L. A continuance shall not be granted due to an unexcused absence of a taxpayer, assessor or any representative, attorney or witness, at the time and place set for a scheduled hearing before the commission, without consent of the taxpayer and/or assessor. If such consent is refused, the hearing shall proceed.

M. - T. ...

La. Tax Commission  
 P. O. Box 66788  
 Baton Rouge, LA 70896  
 (225)925-7830 (B.R.)  
 (504)568-5259(N.O.)

**Form 3103.A**  
**Exhibit A**  
**Appeal to Louisiana Tax Commission**  
**by Taxpayer or Assessor**  
**for Real and Personal Property**

Name: \_\_\_\_\_ Parish/District: \_\_\_\_\_

Taxpayer

Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

Board of Review

Ward: \_\_\_ Asses./Tax Bill Number: \_\_\_\_\_ Appeal Number: \_\_\_\_\_

(Attach copy of complete appeal submitted to the Board of Review)  
 Address or Legal Description of Property Being Appealed. Also, please identify building by place of business for convenience of appraisal.

I hereby appeal the decision of the Board of Review on the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my appeal as required by law.

The original Fair Market Value by the assessor was:

Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

The proposed Fair Market Value by the taxpayer was:

Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

The revised Fair Market Value by the Board of Review was:

Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

The original assessment by the assessor was:

Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

The proposed assessment by the taxpayer was:

Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

The revised assessment by the Board of Review was:

Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

\*NOTE: Report personal property on Improvement line above.

I understand that property is assessed at a percentage of fair market value, which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller, under usual and ordinary circumstances, the highest price the property would bring on the open market, if exposed for sale for a reasonable time. I feel that the fair market value of this real property, as of January 1, 20\_\_\_\_, the official reappraisal valuation date on which assessments are based, was:

Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

Appellant(Taxpayer/Taxpayer's Rep./Assessor)

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Date of Appeal

\* \* \*

U. The taxpayer/taxpayer agent and the assessor shall be notified in writing, by certified mail of the final decision by the commission. The taxpayer or assessor shall have 30 days from receipt of the Order to appeal to a court of competent jurisdiction.

V. - X. ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1989 and R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the

Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 28:521 (March 2002), LR 30:492 (March 2004), LR 31:721 (March 2005), LR 32:436 (March 2006).

**§3105. Practice and Procedure for Public Service Properties Hearings**

A. The Tax Commission or its designated representative, as provided by law, shall conduct hearings to consider the written protest of an appellant taxpayer. The appeal shall be filed within 30 days of the Public Service Section's dated Certificate of Value to the taxpayer. In order to institute a proceeding before the commission, the taxpayer shall file Form 3103.A and, if applicable Form 3103.B.

B. All filings shall be in the form of an original and seven copies.

C. At the close of the time period for filing protests, the commission shall assign each case to the docket and notify the parties of the time and place of the hearing.

D. Ten days prior to said hearings, the protesting taxpayer shall file a signed, pleading (Form 3105.A), specifying each respect in which the initial determination is contested, setting forth the specific basis upon which the protest is filed, together with a statement of the relief sought and four copies of all hearing exhibits to be presented; which shall be marked "Exhibit Taxpayer\_\_\_\_" and shall be consecutively numbered. Legal memorandum submitted by the parties will be made part of the record of proceedings before the commission, but shall not be filed as exhibits to be offered into evidence for the hearing before the commission.

E. Every taxpayer, witness, attorney or other representative shall conduct themselves in all proceedings with proper dignity, courtesy and respect for the hearing officer or the commission, and all other parties. Disorderly conduct will not be tolerated. Attorneys shall observe and practice the standards of ethical behavior prescribed for attorneys at law by the Louisiana Bar Association. Any taxpayer, witness, attorney or other representative may be excluded by the hearing officer or the commission of any hearing for such a period and upon such conditions as are just for violation of this rule.

F. Upon written notice by the commission, the parties and/or their attorneys or other representatives may be directed to meet and confer together by telephone or otherwise, prior to the hearings and/or prior to the setting of a date for a hearing, for the purpose of formulating issues and considering:

1. simplification of issues;
2. a limitation, where possible, of the number of witnesses;
3. possible consolidation of like protests;
4. the time required for presentations;
5. stipulations as to admissibility of exhibits;
6. submission of proposed findings of fact;
7. such other matters as may aid in the simplification of the proceedings and the disposition of the matters in controversy.

G. Actions requested and agreed upon at the conference shall be recorded in an appropriate statement by the taxpayer and filed with the commission seven days prior to the hearing. In the event of a disagreement over any item discussed at the conference, the statement filed with the commission shall state the specific item as to which there is a disagreement, together with a brief summary of the nature of the disagreement.

H. A motion for consolidation of two or more protests, if made prior to hearing, shall be in writing, signed by the mover, his attorney or representative, and filed with the commission prior to the date set for the hearing. No two or more protests shall be consolidated or heard jointly without the consent of the taxpayer and by consent of the commission, unless the commission shall find that the two or more protest involve common questions of law and fact, and shall further find that separate hearings would result in unwarranted expenses, delays or substantial injustice.

I. All hearings shall be open to the public. All hearings shall be held in Baton Rouge, LA, unless the commission shall designate another place of hearing.

J. Hearings may be conducted by a hearing officer selected and appointed by the commission. The hearing officer shall have the authority to administer oaths, may examine witnesses and rule upon the admissibility of evidence and amendments to pleadings. The hearing officer shall have the authority to recess any hearing from day to day.

K. The hearing officer shall have the responsibility and duty of assimilating testimony and evidence, compiling a written summary of the testimony and evidence, and presenting a proposed order to the commission. The proposed order shall be served upon the protesting taxpayer by mailing of the notice of final decision by the commission.

L. The commission or hearing officer shall direct the taxpayer to enter their appearance on the record. In all proceedings, the protesting taxpayer shall open with a statement and/or argument. After the protesting taxpayer has presented all its evidence, the commission or hearing officer may call upon any witness or the staff of the commission for further material or relevant evidence upon any issue.

M. The commission shall provide an official reporter to make and transcribe a stenographic record of the hearing and shall provide for such copies of the transcript as may be requested by any party or as may be required for the purposes of the commission upon payment of the cost of transcribing the hearing.

N. Upon written notice by the commission the parties or their attorneys, or other representative, may be directed to file legal memorandums with the commission seven days prior to the hearing. The legal memorandum shall address in a concise manner the legal issues presented in the appeal to the commission together with a statement of any legal authority supporting the party's position.

O. Any evidence which would be admissible under the rules of evidence governing proceedings in the state of Louisiana, shall be deemed admissible by the commission. The Louisiana Rules of Evidence shall be applied liberally in any proceeding before the commission. Either party may

object to evidence not previously disclosed by the opposing party. The commission may exclude evidence, which is deemed by the commission to be incompetent, immaterial or unduly repetitious.

P. Any party, with leave of the commission or hearing officer, may present prepared sworn deposition testimony of a witness, either narrative or in question and answer form, which shall be incorporated into the record as if read by the witness. The opposing party will be allowed to cross-examine the witness and/or submit any sworn testimony given by the witness in the deposition. Seven copies of the prepared deposition testimony shall be filed with the commission.

Q. The commission or hearing officer shall have the right in any proceeding to limit the number of witnesses whose testimony is merely cumulative.

R. Subpoenas for the attendance of witnesses or for the production of books, papers, accounts or documents at a hearing, may be issued by the commission upon its own motion, or upon the written motion of the taxpayer showing that there is good cause for the issuance of same. No subpoenas shall be issued until the taxpayer who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Any subpoena duces tecum shall allow no less than five days to assimilate and to deliver said documents subpoenaed by the subpoena recipient.

S. The taxpayer/taxpayer agent and the assessor shall be notified in writing by certified mail of the final decision of the commission. The taxpayer or assessor shall have 30 days from receipt of the order to appeal to a court of competent jurisdiction.

T. The word "commission" as used herein refers to the chairman and the members or its delegate appointed to conduct the hearings.

LTC Docket Number \_\_\_\_\_  
 La. Tax Commission  
 P.O. Box 66788  
 Baton Rouge, LA 70896  
 (225)925-7830 (B.R.)  
 (504)568-5259 (N.O.)

**Form 3105.A**  
**Exhibit A**  
**Appeal to Louisiana Tax Commission**  
**by Taxpayer or Assessor**  
**for Public Service Property**

Name: \_\_\_\_\_ Parish/District: \_\_\_\_\_  
 Taxpayer  
 Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_  
 Address or Legal Description of Property Being Appealed \_\_\_\_\_

I hereby appeal the decision of the Board of Review on the assessment of the above described property.

The Fair Market Value of the Louisiana Tax Commission is:  
 Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_  
 I am requesting that the Fair Market Value be fixed at:  
 Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_  
 The assessment of the Louisiana Tax Commission is:  
 Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_  
 I am requesting that the assessment be fixed at:  
 Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the

property would bring on the open market if exposed for sale for a reasonable time.

I feel that the fair market value of this real property, as of January 1, 20\_\_\_\_, the official reappraisal valuation date on which assessments are currently based, was:

Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

\_\_\_\_\_  
 Appellant(Taxpayer/Taxpayer's Rep./Assessor)  
 Address: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_

Date of Appeal \_\_\_\_\_

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

**HISTORICAL NOTE:** Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:493 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 30:492 (March 2004), LR 31:723 (March 2005), LR 32:438 (March 2006).

**Chapter 33. Financial Institutions**  
**§3307. Methods of Branch Office Allocations**

A. - B.1. ...

C. Once an election is made by the institution, a change to the other alternative is permitted only upon prior, written approval of the Tax Commission. If such change is granted, the new allocation method shall remain in effect for a period of at least five years thereafter before another change request will be considered, unless the commission permits a waiver of the five year requirement.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:1967, R.S. 47:1968, R.S. 47:1969, R.S. 6:942, R.S. 6:943 and R.S. 6:944.

**HISTORICAL NOTE:** Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 13:249 (April 1987), amended LR 16:1064 (December 1990), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 32:439 (March 2006).

**Chapter 35. Miscellaneous**  
**§3501. Service Fees—Tax Commission**

A. - D. ...

1. The Louisiana Tax Commission Real/Personal Property Rules and Regulations manual can be found on the Commission website at [www.latax.state.la.us](http://www.latax.state.la.us). There is no charge levied for this service.

2. The Louisiana Tax Commission annually adopted updates and amendments to the Real/Personal Property Rules and Regulations manual can be found on the Commission website at [www.latax.state.la.us](http://www.latax.state.la.us). There is no charge levied for this service.

D.3. - E. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:1835 and R.S. 47:1838.

**HISTORICAL NOTE:** Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR

### §3503. Homestead Exemptions

#### A. General Provisions

1. ...
2. The constitution exempts to the extent of \$7,500 of assessed value.
  - a. The bona fide homestead, consisting of a tract of land or two or more tracts of land, even if the land is classified and assessed at use value, with a residence on one tract and a field, with or without timber on it, pasture, or garden on the other tract or tracts, not exceeding 160 acres, buildings and appurtenances, whether rural or urban, owned and occupied by any person or persons owning the property in indivision.
  - b. The same homestead exemption shall also fully apply to the primary residence including a mobile home which serves as a bona fide home and which is owned and occupied by any person or persons owning the property in indivision, regardless of whether the homeowner owns the land upon which the home or mobile home is sited; however, this homestead exemption shall not apply to the land upon which such primary residence is sited if the homeowner does not own the land.
  - c. The homestead exemption shall extend and apply fully to the surviving spouse or a former spouse when the homestead is occupied by the surviving spouse or a former spouse and title to it is in the name of:
    - i. the surviving spouse as owner of any interest or either or both of the former spouses;
    - ii. the surviving spouse as usufructuary; or
    - iii. a testamentary trust established for the benefit of the surviving spouse and the descendants of the deceased spouse or surviving spouse, but not to more than one homestead owned by either the husband or wife, or both.
  - d. The homestead exemption shall extend to property owned by an irrevocable trust when the principal beneficiary or beneficiaries of the trust are the settlor or settlors of the trust and were the immediate prior owners of the homestead, and the homestead is occupied as such by a principal beneficiary. The provisions of this Subparagraph shall apply only to property which qualified for the homestead exemption immediately prior to transfer, conveyance, or donation in trust, or which would have qualified for the homestead exemption if such property were not owned in trust.
  - e. The homestead exemption shall extend to property where the usufruct of the property has been granted to no more than two usufructaries who were the immediate prior owners of the homestead and the homestead is occupied as such by a usufructary. The provisions of this Subparagraph shall apply only to property which qualified for the homestead exemption immediately prior to the granting of such usufruct, or which would have qualified for the homestead exemption if such usufruct had not been granted.
3. The homestead exemption shall extend only to a natural person or persons and to an irrevocable trust created by a natural person or persons, in which the beneficiaries of the trust are a natural person or persons provided that the provisions of this Paragraph are otherwise satisfied.

4. Except as otherwise provided for in this Paragraph, the homestead exemption shall apply to property owned in indivision, but shall be limited to the pro rata ownership interest of that person or persons occupying the homestead. For example, a person owning a 50 percent interest in property would be entitled to a homestead exemption of \$3,750 of the property's assessed value provided such person occupies the home.

5. No homestead exemption shall be granted on bond for deed property. However, any homestead exemption granted prior to June 20, 2003, on any property occupied on December 7, 2004, by a buyer under a bond for deed contract shall remain valid as long as the circumstances giving rise to the exemption at the time the exemption was granted remains applicable.

6. In no event shall more than one homestead exemption extend or apply to any person in this state.

7. This exemption shall not extend to municipal taxes. However, the exemptions shall apply:

a. in Orleans Parish, to state, general city, school, levee, and levee district taxes; and

b. to any municipal taxes levied for school purposes.

8. Homestead exemptions are based upon the conditions of things existing on January 1 (August 1 in Orleans Parish) of each year.

9. Property owned by a partnership or corporation is not entitled to homestead exemption (Corporation: A.G.'s Opinion May 7, 1969, A.G.'s Opinion 1940-42, p. 4119; Partnership: A.G.'s Opinion 1936-38, p. 1044).

10. Purchase arrangement which does not transfer title does not give occupant entitlement to homestead exemption (Lease/purchase: A.G.'s Opinion 1940-42, p. 4110, and p. 4115; A.G.'s Opinion 1942-44, p. 1679; Bond for Deed: A.G.'s Opinion No. 87-345, May 12, 1987).

B. The purpose of this section is to partially implement the provisions of Article VII, Section 20(B) of the Constitution of Louisiana relative to the providing of tax relief to residential lessees in order to provide equitable tax relief similar to that granted to homeowners through homestead exemptions.

1. A residential lessee is defined as a person who owns and occupies a residence, including mobile homes, but does not own the land upon which the residence is situated.

2. A residential lessee shall be entitled to a credit against any ad valorem tax imposed relative to the residence property, in an amount equal to the amount of tax applicable on property with an assessed valuation of \$7,500 or the actual amount of tax, whichever is less, provided the residential lessee is not otherwise entitled to the homestead exemption (R.S. 47:1710).

#### C. Residence

1. Only one homestead exemption can be claimed. (A.G.'s Opinion 1942-44, p. 1660, A.G.'s Opinion 1942-44, p. 1678, A.G.'s Opinion 1940-42, p. 4117).

2. - 8 ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 16:1064 (December 1990), amended LR 17:611 (June 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 23:209 (February 1997),

amended by the Department of Revenue, Tax Commission, LR 25:320 (February 1999), LR 32:440 (March 2006).

**§3507. Claim for Taxes Paid in Error**

A. - A.2.d. ...

3. The person who presents the claim shall:

a. present proof of an erroneous payment by evidence such as a receipt or a canceled check issued in payment; and

b. present proof that he or she:

i. is the person who made the erroneous payment by evidence such as a receipt to the claimant, or a canceled check issued in payment; or

ii. is a bona fide representative of the person who made the erroneous payment by evidence such as proof of status of responsible employee or officer, or affidavit or contract of employment as attorney, accountant, or other representative; or, by proof of status as custodian, trustee, executor, or other legal capacity, or other showing of capacity of representative of the claimant; or

iii. has succeeded to or otherwise possesses the right to present the claim.

4. - 6. ...

7. A copy of the claim shall be forwarded to the assessor, and the assessor shall, within five business days after receipt thereof, advise the Tax Commission whether a refund is due to claimant using Form 3507.B. If the assessor advises the Tax Commission that a refund is due the claimant, the Tax Commission shall duly examine the merits and correctness of each such claim, and shall make a determination thereon within 30 days of receipt of the claim.

8. - 9. ...

**Form 3507.A  
Claim for Refund or Credit  
of Taxes Paid in Error**

I. Claimant:  
Name \_\_\_\_\_  
Mailing Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

II. Property:  
Parish \_\_\_\_\_ District (If Orleans Parish) \_\_\_\_\_ Ward \_\_\_\_\_  
Assessment No. \_\_\_\_\_ Tax Bill No. \_\_\_\_\_  
Amount of Tax Paid in Error \_\_\_\_\_ Description of property: \_\_\_\_\_

III. Basis of Claim:  
Dual or multiple payment \_\_\_\_\_  
Payment on non-existent property \_\_\_\_\_  
Payment on property in which taxpayer no longer has an interest \_\_\_\_\_  
Property is eligible for homestead exemption \_\_\_\_\_  
Clerical error in assessment rolls \_\_\_\_\_  
Other \_\_\_\_\_

The following documents are attached to this form as proof of the basis for this claim:  
\_\_\_\_\_  
\_\_\_\_\_

IV. Proof of Payment:

The following proof of payment is attached:  
\_\_\_\_\_ Copy of canceled check(s) (both sides)  
\_\_\_\_\_ Receipt to the Claimant

V. Date of Erroneous Payment:

The following proof of payment is attached:  
\_\_\_\_\_ Copy of canceled check(s) (both sides)  
\_\_\_\_\_ Receipt to the Claimant  
\_\_\_\_\_ Other

VI. Standing

The following proof that the claimant is the person who made the erroneous payment, is a bona fide representative of the person who made the erroneous payment or has succeeded to or otherwise possesses the right to present the claim is attached:

\_\_\_\_\_ Receipt to Claimant or canceled check  
\_\_\_\_\_ Proof of status as responsible employee or officer  
\_\_\_\_\_ Affidavit or Contract of Employment as attorney, accountant or other representative, or  
\_\_\_\_\_ Other proof of status as legal representative of Claimant

VII. Signature: \_\_\_\_\_  
Property Owner/Authorized Agent

**Be Completed at Office of Louisiana Tax Commission**

Claim received, Date \_\_\_\_\_ Assessor consulted, Date \_\_\_\_\_  
Assessor's Response: Approve \_\_\_\_\_ Disapprove \_\_\_\_\_ Date \_\_\_\_\_  
Other \_\_\_\_\_

Initial Response to Taxpayer  
Documentation requested \_\_\_\_\_ Date \_\_\_\_\_  
Received \_\_\_\_\_ Date \_\_\_\_\_

Decision  
Approved \_\_\_\_\_ Denied \_\_\_\_\_ Date \_\_\_\_\_  
Reason for Denial \_\_\_\_\_  
Reason \_\_\_\_\_

Refund or Credit  
Property is eligible for homestead Yes \_\_\_\_\_ No \_\_\_\_\_  
Parish has alternative procedure Yes \_\_\_\_\_ No \_\_\_\_\_

**Form 3507.B  
Assessor Notification of  
Possible Claim for Refund or Credit  
for Taxes Paid in Error  
(To Be Completed by Assessor)**

Claimant:  
Name \_\_\_\_\_  
Mailing Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Property:  
Parish \_\_\_\_\_ District (If Orleans Parish) \_\_\_\_\_  
Ward \_\_\_\_\_ Assessment No. \_\_\_\_\_ Tax Bill No. \_\_\_\_\_

I have received and reviewed the Claim for Refund or Credit of Taxes Paid in Error (Form 3507.A) for the above referenced claimant and property. Based upon my review, I have determined that:

The claimant is due a refund or credit for taxes erroneously paid in the amount of \$ \_\_\_\_\_ due to (describe reason(s) for refund or credit) \_\_\_\_\_.

This property is \_\_\_\_\_ is not \_\_\_\_\_ eligible for the homestead exemption.

My parish does \_\_\_\_\_ does not \_\_\_\_\_ have an alternative procedure for providing for refunds of ad valorem taxes erroneously paid.

\_\_\_\_\_ No refund or credit for taxes erroneously paid is due. (Reason(s) for denial)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Assessor

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2108.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 16:1063 (December

1990), amended LR 19:212 (February 1993), LR 20:198 (February 1994), LR 22:117 (February 1996), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998), LR 32:441 (March 2006).

Elizabeth L. Guglielmo  
Chairman

0603#046

#### **RULE**

#### **Department of Social Services Office of Family Support**

Support Enforcement Services Program  
Electronic Disbursement of Child Support  
(LAC 67:III.2518)

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), by adopting §2518, Electronic Disbursement of Child Support Payments.

#### **Title 67**

#### **SOCIAL SERVICES**

#### **Part III. Family Support**

#### **Subpart 4. Support Enforcement Services**

#### **Chapter 25. Support Enforcement**

#### **Subchapter D. Collection and Distribution of Support Payments**

#### **§2518. Electronic Distribution of Child Support Payments**

A. Effective November 1, 2005, the agency will offer electronic disbursement of child support payments. Electronic disbursement of child support includes direct deposits to the custodial parent's bank account (checking or savings) or payments to a stored value card account.

B. A stored value card is a card-accessed account system where payments are electronically deposited into an account accessible for cash withdrawal or for credit purchases.

C. The fees associated with the use of the stored value card are subject to the conditions of that financial institution.

AUTHORITY NOTE: Promulgated in accordance with section 454A(g) of the Social Security Act and PIQ-04-02.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:442 (March 2006).

Ann Silverberg Williamson  
Secretary

0603#047

# Notices of Intent

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 122—Trade and Industrial Education Curricula  
(LAC 28:CXXVII.Chapters 1-7)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement *Bulletin 122—Trade and Industrial Education Curricula*. Bulletin 122 will be printed in codified format as Part CXXVII of the *Louisiana Administrative Code*. The action is being proposed to update Career and Technical course offerings. In updating these courses offerings our Career and Technical program of studies will be more aligned with national standards.

#### Title 28 EDUCATION

#### Part CXXVII. Bulletin 122—Trade and Industrial Education Curricula

#### Chapter 1. General Provisions

#### §101. Introduction

A. The National Center for Construction Education and Research (NCCER) is a nonprofit 501(c)(3) foundation for education providing curricula to diversified craft-based businesses. These include industries tied to construction, pipeline, and maintenance. Various industries such as trade associations, construction, schools, contractors, and maintenance users, manufacturers, third-party training providers, and pipeline operators support the efforts of NCCER.

B. The NCCER has coordinated with industry to develop curricula that is respected and acknowledged nationwide. Their curricula are nationally standardized, portable, and competency based. The NCCER has earned the respect and acknowledgement of industry and is partnered with various industry sectors such as construction, pipeline and maintenance. A National Registry has been developed which lists all students who have been awarded industry-based certifications in a number of crafts which allows employers to draw from a workforce they know have been trained by using a nationally consistent curricula.

C. The Louisiana Department of Education (LDE) serves as the state sponsor for NCCER certification for both secondary and postsecondary students. Adoption of common curricula for craft-based courses by both the LDE and Louisiana Technical College (LTC) will facilitate articulation. Upon successful completion of NCCER training, students can earn industry-based certifications in heating, venting, air conditioning, and refrigeration (HVAC-R); carpentry; and electrical. Documentation of these certifications is maintained on the NCCER National Registry offering students a portable credential recognized by industry.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

#### Chapter 3. Carpentry Competencies/Objectives §301. Level One

- A. Module 27101-01. Orientation to The Trade
1. Describe the history of the carpentry trade.
  2. Identify the stages of progress within the carpentry trade.
  3. Identify the responsibilities of a person working in the construction industry.
  4. State the personal characteristics of a professional.
  5. Explain the importance of safety in the construction industry.
- B. Module 27102-01. Wood Building Materials, Fasteners, and Adhesives
1. Explain the terms commonly used in discussing wood and lumber.
  2. State the uses of various types of hardwoods and softwoods.
  3. Identify various types of imperfections that are found in lumber.
  4. Explain how lumber is graded.
  5. Interpret grade markings on lumber and plywood.
  6. Explain how plywood is manufactured, graded, and used.
  7. Identify various types of building boards and identify their uses.
  8. Identify the uses of and safety precautions associated with pressure-treated and fire-retardant lumber.
  9. Describe the proper method of caring for lumber and wood building materials at the job site.
  10. State the uses of various types of engineered lumber.
  11. Calculate the quantities of lumber and wood products using industry-standard methods.
  12. List the basic nail and staple types and their uses.
  13. List the basic types of screws and their uses.
  14. Identify the different types of anchors and their uses.
  15. Describe the common types of adhesives used in construction work and explain their uses.
- C. Module 27103-01. Hand and Power Tools
1. Identify the hand tools commonly used by carpenters and describe their uses.
  2. Use hand tools in a safe and appropriate manner.
  3. State the general safety rules for operating all power tools, regardless of type.
  4. State the general rules for properly maintaining all power tools, regardless of type.
  5. Identify the portable power tools commonly used by carpenters and describe their uses.
  6. Use portable power tools in a safe and appropriate manner.
  7. Identify the stationary power tools commonly used by carpenters and describe their uses.
  8. Use stationary power tools in a safe and appropriate manner.



D. Module 27104-01. Floor Systems

1. Identify the different types of framing systems.
2. Read and understand drawings and specifications to determine floor system requirements.
3. Identify floor and sill framing and support members.
4. Name the methods used to fasten sills to the foundation.
5. Given specific floor load and span data, select the proper girder/beam size from a list of available girders/beams.
6. List and recognize different types of floor joists.
7. Given specific floor load and span data, select the proper joist size from a list of available joists.
8. List and recognize different types of bridging.
9. List and recognize different types of flooring materials.
10. Explain the purposes of subflooring and underlayment.
11. Match selected fasteners used in floor framing to their correct uses.
12. Estimate the amount of material needed to frame a floor assembly.
13. Demonstrate the ability to:
  - a. lay out and construct a floor assembly;
  - b. install bridging;
  - c. install joists for a cantilever floor;
  - d. install a subfloor using butt-joint plywood/OSB panels;
  - e. install a single floor system using tongue-and-groove plywood/OSB panels.

E. Module 27105-01. Wall and Ceiling Framing

1. Identify the components of a wall and ceiling layout.
2. Describe the procedure for laying out a wood frame wall, including:
  - a. plates;
  - b. corner posts;
  - c. door and window openings;
  - d. partition Ts;
  - e. bracing; and
  - f. firestops.
3. Describe the correct procedure for assembling and erecting an exterior wall.
4. Describe the common materials and methods used for installing sheathing on walls.
5. Lay out, assemble, erect, and brace exterior walls for a frame building.
6. Describe wall framing techniques used in masonry construction.
7. Explain the use of metal studs in wall framing.
8. Describe the correct procedure for laying out a ceiling.
9. Cut and install ceiling joists on a wood frame building.
10. Estimate the materials required to frame walls and ceilings.

F. Module 27106-01. Roof Framing

1. Understand the terms associated with roof framing.
2. Identify the roof framing members used in gable and hip roofs.

3. Identify the methods used to calculate the length of a rafter.
4. Identify the various types of trusses used in roof framing.
5. Use a rafter framing square, speed square, and calculator in laying out a roof.
6. Identify various types of sheathing used in roof construction.
7. Frame a gable roof with vent openings.
8. Frame a roof opening.
9. Construct a frame roof, including:
  - a. hips;
  - b. valleys;
  - c. commons;
  - d. jack rafters; and
  - e. sheathing.
10. Erect a gable roof using trusses.
11. Estimate the materials used in framing and sheathing a roof.

G. Module 27107-01. Windows and Exterior Doors

1. Identify various types of fixed, sliding, and swinging windows.
2. Identify the parts of a window installation.
3. State the requirements for a proper window installation.
4. Install a pre-hung window.
5. Identify the common types of skylights and roof windows.
6. Describe the procedure for properly installing a skylight.
7. Identify the common types of exterior doors and explain how they are constructed.
8. Identify the parts of a door installation.
9. Identify the types of thresholds used with exterior doors.
10. Install a threshold on a concrete floor.
11. Install a pre-hung exterior door with weather-stripping.
12. Identify the various types of locksets used on exterior doors and explain how they are installed.
13. Explain the correct installation procedure for a rollout garage door.
14. Install a lockset.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

**§303. Level Two**

A. Module 27201-01. Reading Plans and Elevations

1. Describe the types of drawings usually included in a set of plans and list the information found on each type.
2. Identify the different types of lines used on construction drawings.
3. Identify selected architectural symbols commonly used to represent materials on plans.
4. Identify selected electrical, mechanical, and plumbing symbols commonly used on plans.
5. Identify selected abbreviations commonly used on plans.
6. Read and interpret plans, elevations, schedules, sections, and details contained in basic construction drawings.

7. State the purpose of written specifications.
8. Identify and describe the parts of a specification.
9. Demonstrate or describe how to perform a quantity takeoff for materials.

B. Module 27202-01. Site Layout One: Distance Measurement and Leveling

1. Describe the major responsibilities of the carpenter relative to site layout.
2. Convert measurements stated in feet and inches to equivalent measurements stated in decimal feet, and vice versa.
3. Use and properly maintain tools and equipment associated with taping.
4. Use taping and/or chaining equipment and procedures to make distance measurements and perform site layout tasks.
5. Determine approximate distances by pacing.
6. Recognize, use, and properly care for tools and equipment associated with differential leveling.
7. Use a builder's level or transit and differential leveling procedures to determine site and building elevations.
8. Record site layout data and information in field notes using accepted practices.
9. Check and/or establish 90° angles using the 3/4/5 rule.

C. Module 27203-01. Introduction to Concrete and Reinforcing Materials

1. Identify various types of cement and describe their uses.
2. Identify types and sizes of concrete aggregates.
3. Identify types of concrete admixtures and describe their uses.
4. Identify special types of concrete and describe their uses.
5. Identify concrete curing methods and materials.
6. Identify concrete testing methods.
7. Demonstrate sampling methods used for the testing of concrete.
8. Perform slump testing of concrete.
9. Perform casting of specimens for strength testing of concrete.
10. Perform volume estimates for concrete quantity requirements.
11. Identify types of concrete reinforcement bars and describe their uses.
12. Identify types of reinforcement bar supports and describe their uses.
13. Identify types of welded-wire fabric (WWF) reinforcement material and describe their uses.

D. Module 27204-01. Foundations and Flatwork

1. Identify various kinds of footings, including:
  - a. continuous or spread;
  - b. stepped;
  - c. pier;
  - d. grade beam.
2. Identify the parts of footing forms and explain their purpose.
3. Identify the parts of pier forms and explain their purpose.

4. Demonstrate the ability to lay out and construct selected footing forms, including:
  - a. continuous footing;
  - b. pier footing;
  - c. pile cap;
  - d. grade beam.

5. Strip a pier footing form and prepare it for erection at another location.
6. Identify types of concrete structures that require the construction of edge forms:
  - a. slabs with or without a foundation;
  - b. parking lots;
  - c. driveways and streets;
  - d. sidewalks;
  - e. approaches.

7. Identify the parts of edge forms and explain their purpose.
8. Demonstrate the ability to construct and disassemble edge forms for:
  - a. a slab-on-grade with an existing foundation;
  - b. a slab-on-grade with an integral foundation.
9. Explain the purpose of a screed and identify the different types of screeds.
10. Demonstrate the ability to set screeds on grade.

E. Module 27205-01. Concrete Forms

1. Identify the various types of concrete forms.
2. Identify the components of each type of form.
3. Explain the safety procedures associated with using concrete forms.
4. Erect, plumb, and brace selected concrete forms, including:
  - a. basic wall form;
  - b. ganged wall form;
  - c. radius wall form;
  - d. column form;
  - e. beam form and shoring;
  - f. stair form.

F. Module 27206-01. Reinforcing Concrete

1. Describe the applications of reinforcing bars, the uses of reinforced structural concrete, and the basic processes involved in placing reinforcing bars.
2. Recognize and identify the bar bends standardized by the American Concrete Institute (ACI).
3. Read and interpret bar lists and describe the information found on a bar list.
4. List the types of ties used in securing reinforcing bars.
5. State the tolerances allowed in the fabrication of reinforcing bars.
6. Demonstrate the proper use of common ties for reinforcing bars.
7. Describe methods by which reinforcing bars may be cut and bent in the field.
8. Use the tools and equipment needed for installing reinforcing bars.
9. Demonstrate the ability to safely use selected tools and equipment to cut, bend, and install reinforcing materials.
10. Explain the necessity of concrete cover in placing reinforcing bars.
11. Explain and demonstrate how to place bars in walls, columns, beams, girders, joists, and slabs.

12. Identify lapped and welded splices.
- G. Module 27207-01. Handling and Placing Concrete
  1. Identify and state the purpose of different types of concrete joints.
  2. Recognize the various equipment used to transport and place concrete.
  3. Describe the factors that contribute to the quality of concrete placement.
  4. Demonstrate and/or describe the correct methods for placing and consolidating concrete into forms.
  5. Demonstrate and/or describe how to use a screed to strike off and level concrete to the proper grade in a form.
  6. Demonstrate and/or describe how to use a bullfloat and/or darby to level and smooth concrete.
  7. Determine when conditions permit the concrete finishing operation to start.
  8. Demonstrate and/or describe how to use a hand float and finishing trowel.
  9. Demonstrate and/or describe how to use an edger.
  10. Demonstrate and/or describe how to use a jointer.
  11. Name the factors that affect the curing of concrete and describe the methods used to achieve proper curing.
  12. Properly care for and safely use hand and power tools used when working with concrete.

- H. Module 27208-01. Manufactured Forms
  1. Recognize various types of manufactured forms.
  2. Identify the components of manufactured wall-forming systems.
  3. State the differences in construction and use among different types of forms.
  4. Describe how a flying form system is moved.
  5. Erect, plumb, and brace a manufactured wall form.
  6. Use a manufactured hardware system to erect forms of lumber and sheathing.
  7. Erect, plumb, and brace a manufactured column form.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

**§305. Level Three**

- A. Module 27301-02. Exterior Finishing
  1. Describe the purpose of wall insulation and flashing.
  2. Identify the types and parts of common cornices.
  3. Demonstrate the installation of selected common cornices.
  4. Demonstrate lap and panel siding estimating methods.
  5. Describe the types and applications of common wood siding:
    - a. beveled;
    - b. tongue-and-groove;
    - c. shiplap;
    - d. board-and-batten;
    - e. shake or shingle;
    - f. plywood;
    - g. hardboard and particleboard.
  6. Install selected types of wood siding.
  7. Describe fiber-cement siding and its uses.
  8. Demonstrate the installation of fiber-cement siding.
  9. Describe the types and styles of vinyl and metal siding.

10. Install selected types of vinyl or metal siding.
11. Describe the types and applications of stucco and masonry veneer finishes.
12. Describe the types and applications of special exterior finish systems.
13. Describe the types and styles of gutters and downspouts and their accessories.
14. Install selected types of metal or vinyl gutters and downspouts.

- B. Module 27302-02. Roofing Applications
  1. Identify the materials and methods used in roofing.
  2. Explain the safety requirements for roof jobs.
  3. Install fiberglass shingles on gable and hip roofs.
  4. Close up a valley using fiberglass shingles.
  5. Explain how to make various roof projections watertight when using fiberglass shingles.
  6. Complete the proper cuts and install the main and hip ridge caps using fiberglass shingles.
  7. Lay out, cut, and install a cricket or saddle.
  8. Install wood shingles and shakes on roofs.
  9. Describe how to close up a valley using wood shingles and shakes.
  10. Explain how to make roof projections watertight when using wood shakes and shingles.
  11. Complete the cuts and install the main and hip ridge caps using wood shakes/shingles.
  12. Demonstrate the techniques for installing other selected types of roofing materials.

- C. Module 27303-02. Thermal and Moisture Protection
  1. Describe the requirements for insulation.
  2. Describe the characteristics of various types of insulation material.
  3. Calculate the required amounts of insulation for a structure.
  4. Demonstrate the installation of selected insulation materials.
  5. Describe the requirements for moisture control and ventilation.
  6. Install selected vapor barriers.
  7. Describe various methods of waterproofing.
  8. Describe air infiltration control requirements.
  9. Install selected building wraps.

- D. Module 27304-02. Stairs
  1. Identify the various types of stairs.
  2. Identify the various parts of stairs.
  3. Identify the materials used in the construction of stairs.
  4. Interpret construction drawings of stairs.
  5. Explain the methods of constructing various types of stairs.
  6. Understand the various terms and definitions relating to stairs.
  7. Lay out and cut stringers.
  8. Determine the number and sizes of risers and treads required for a stairway.
  9. Build a small stair unit with a handrail.
  10. Lay out a skirt board.
- E. Module 27305-02. Framing with Metal Studs
  1. Identify the components of a metal stud system.
  2. Identify and select the tools and fasteners used in a metal stud system.
  3. Identify applications for metal stud systems.

4. Lay out and install a metal stud wall with openings.
  5. Lay out and install a metal door frame.
  6. Lay out and install a metal stud radius wall.
- F. MODULE 27306-02. Drywall One: Installation
1. Identify the different types of gypsum wallboard (drywall) and their uses.
  2. Select the type and thickness of drywall required for specific installations.
  3. Select fasteners for drywall installation.
  4. Explain the fastener schedules for different types of drywall installations.
  5. Perform single-layer and multi-layer drywall installations using different types of fastening systems, including:
    - a. nails;
    - b. drywall screws;
    - c. adhesives.
  6. Install gypsum drywall on metal studs.
  7. Explain how soundproofing is achieved in drywall installations.
  8. Estimate material quantities for a drywall installation.
- G. Module 27307-02. Drywall Two: Finishing
1. Explain the different levels of finishing as defined in A Recommended Specification for Levels of Gypsum Board Finish.
  2. Identify the hand tools used in drywall finishing and demonstrate the ability to use these tools.
  3. Identify the automatic tools used in drywall finishing.
  4. Identify the materials used in drywall finishing and state the purpose and use of each type of material, including:
    - a. compounds;
    - b. joint reinforcing tapes;
    - c. trim materials;
    - d. textures and coatings.
  5. Demonstrate the ability to properly finish drywall using hand tools.
  6. Recognize various types of problems that occur in drywall finishes and identify the cause and correct method for solving each type of problem.
  7. Demonstrate the ability to patch damaged drywall.
- H. Module 27308-02. Interior Finish One: Doors
1. Identify various types of door jambs and frames and demonstrate the installation procedures for placing selected door jambs and frames in different types of interior partitions.
  2. Identify different types of interior doors.
  3. Identify different types of interior door hardware and demonstrate the installation procedures for selected types.
  4. Demonstrate the correct and safe use of the hand tools described in this module.
  5. Demonstrate the correct and safe use of the power tools described in this module.
  6. List and identify specific items included on a typical door schedule.
  7. Demonstrate the procedure for placing and hanging a selected door.
- I. Module 27309-02. Interior Finish Two: Suspended Ceilings
1. Establish a level line.

2. Understand the common terms related to sound waves and acoustical ceiling materials.
  3. Identify the different types of suspended ceilings.
  4. Interpret plans and shop drawings related to ceiling layout.
  5. Sketch the ceiling layout for a basic suspended ceiling.
  6. Perform a material takeoff for a suspended ceiling.
  7. Install selected suspended ceilings.
- J. Module 27310-02. Interior Finish Three: Window, Door, Floor, and Ceiling Trim
1. Identify the different types of standard moldings and describe their uses.
  2. Make square and miter cuts using a miter box or power miter saw.
  3. Make coped joint cuts using a coping saw.
  4. Select and properly use fasteners to install trim.
  5. Install interior trim, including:
    - a. door trim;
    - b. window trim;
    - c. base trim;
    - d. ceiling trim;
  6. Estimate the quantities of different trim materials required for selected rooms.
- K. Module 27311-02. Interior Finish Four: Cabinet Installation
1. State the classes and sizes of typical base and wall kitchen cabinets.
  2. Recognize the common types of woods used to make cabinets.
  3. Identify cabinet components and hardware and describe their purpose.
  4. Install factory-made cabinets, countertops, and backsplashes.
  5. Install plastic laminate on a countertop core.
- AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).
- HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:
- §307. Level Four**
- A. Module 27401-03. Site Layout Two: Angular Measurement
1. Perform calculations pertaining to angular measurements.
    - a. Use the Pythagorean theorem to determine unknown values.
    - b. Use right triangle trigonometry to determine unknown values.
    - c. Convert feet and inches to decimal feet, and vice versa.
    - d. Convert angular measurements stated in decimal degrees to degrees, minutes, seconds, and vice versa.
    - e. Convert azimuth to bearing, and vice versa.
    - f. Convert polar coordinates to rectangular coordinates, and vice versa.
    - g. Convert distance and direction into latitudes and departures.
  2. Recognize, safely use, and properly care for site layout tools and instruments, including:
    - a. construction laser instruments;
    - b. transits;
    - c. theodolites;

- d. electronic distance measurement instruments (EDMIs);
  - e. total stations.
3. Lay out building lines using traditional and radial layout techniques.
    4. Use a laser level to determine unknown elevations.
    5. Use trigonometric leveling techniques to determine unknown elevations.
- B. Module 27402-03. Advanced Roof Systems
1. Describe the characteristics and properties of metals as they relate to roofing applications.
  2. Identify the types of trusses and joists used in commercial roofing.
  3. Demonstrate the installation of panels for a lap seam metal roof, including the preparation of eaves.
  4. Demonstrate the installation of panels for a standing seam metal roof.
  5. Describe the proper installation procedures for a built-up roof.
  6. Demonstrate the installation of endlapped panels for a standing seam metal roof.
  7. Demonstrate the sealing of a sidelap standing seam metal roof.
- C. MODULE 27403-03. Advanced Floor Systems
1. Identify different types of floor systems.
  2. Explain the purpose of working drawings as they relate to flooring systems.
  3. Identify the different types of floor coverings and discuss their applications.
  4. Explain the various methods of fireproofing floor systems.
  5. Demonstrate the ability to install various types of floor coverings.
- D. Module 27404-03. Advanced Wall Systems
1. Explain the different types of wall systems.
  2. Explain the different types of wall finishes.
  3. Explain the various methods of fireproofing a wall system.
  4. Demonstrate the ability to install paneling with wainscoting.
  5. Describe the process used in forming and installing tilt-up wall panels.
  6. Identify various advanced wall systems and explain the techniques used in their construction.
  7. Demonstrate the ability to build penetration firewalls and sound control walls per specifications.
- E. Module 27405-03. Advanced Stair Systems
1. Identify the various stair parts.
  2. Explain and demonstrate the procedure for cutting and installing various stair parts, including:
    - a. mitered finish stringers;
    - b. mitered risers;
    - c. treads;
    - d. newel posts;
    - e. handrails;
    - f. balusters.
  3. Describe the method for finishing service stairs and main stairs, and demonstrate instructor-selected finishing for one or more of the following:
    - a. open;
    - b. closed;
    - c. combination open/closed;

- d. L-shaped;
  - e. u-shaped
4. Identify what materials can be used to build stairs for commercial construction.
- F. Module 27406-03. Introduction to Light Equipment
1. Identify and explain the operation and use of various pieces of light equipment, including:
    - a. aerial lifts;
    - b. skid steer loaders;
    - c. trenchers;
    - d. generators;
    - e. compressors;
    - f. compactors;
    - g. forklifts;
    - h. backhoe.
  2. State the safety precautions associated with light equipment.
  3. Operate selected items of light equipment.
- G. Module 27407-03. Welding
1. Identify and explain the parts of an oxyfuel cutting outfit.
  2. State the safety rules for working with oxyfuel equipment.
  3. Identify the proper protective clothing and eye protection to be used in oxyfuel cutting.
  4. Explain the meaning of the terms backfire and flashback, describe how to avoid them, and what to do if they occur.
  5. Match cutting torch tips to their applications.
  6. Under the supervision of the instructor, demonstrate the ability to:
    - a. set up equipment for oxyfuel cutting;
    - b. turn on, light, and adjust the equipment to obtain a neutral flame;
    - c. cut mild steel, stop, and restart the cut
  7. State the safety precautions associated with arc welding.
  8. Identify the proper protective clothing and eye protection to be used in welding.
  9. Identify the types of arc welding machines.
  10. Identify the types of arc welding electrodes.
  11. Interpret the meanings of the electrode classification codes.
  12. Identify the factors to consider when selecting electrodes.
  13. State the characteristics of a good weld.
  14. Under the supervision of the instructor, demonstrate the ability to perform one or more of the following welding procedures:
    - a. start, stop, and restart a bead;
    - b. construct a pad weld;
    - c. construct a butt weld;
    - d. construct a lap-joint fillet weld in the overhead position;
    - e. construct a T-joint fillet weld in the vertical up position;
    - f. construct a square-groove butt-joint weld in the vertical down position.
- H. Module 27408-03. Metal Buildings
1. Discuss the common applications and basic design principles of metal buildings and contrast them to standard construction.

2. State the safety precautions applicable to metal building assembly, including:

- a. power tool safety;
- b. rigging safety;
- c. electrical safety;
- d. concrete-related safety;
- e. fall protection;
- f. ladder and scaffold safety;
- g. welding safety.

3. Describe fastening methods used in metal building construction.

4. Describe the basic erection practices for interior and end bays of metal buildings.

5. Describe the procedures used in plumbing, leveling, and squaring a metal building and contrast them to those used in standard construction.

6. Identify and describe the types of roof panels and roofing materials used on metal buildings.

7. Identify and describe the types of walls and wall finishes used on metal buildings.

8. Describe the procedures used to install windows and doors in metal buildings.

9. Interpret metal building drawings and schematics.

I. Module 27409-03 (Mt101). Introductory Skills for the Crew Leader

1. Discuss current issues and organizational structure in the construction industry today.

2. Understand and incorporate leadership skills into work habits, including:

- a. communication;
- b. motivation;
- c. team building;
- d. problem solving; and
- e. decision-making skills.

3. Demonstrate an awareness of safety issues, including the cost of accidents and safety regulations.

4. Identify a supervisor's typical safety responsibilities.

5. Show a basic understanding of the planning process, scheduling, and cost and resource control.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

### **§309. Level Five**

A. Module 27501-03. Cabinetmaking

1. State the classes and sizes of typical base and wall kitchen cabinets.

2. Recognize the common types of woods used to make cabinets.

3. Identify cabinet components and hardware and describe their purpose.

4. Correctly and safely use stationary power tools.

5. Identify and cut the various types of joints used in cabinetmaking.

6. Build a cabinet from a set of drawings.

7. Install plastic laminate on a countertop core.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

## **Chapter 5. Electrical Competencies/Objectives**

### **§501. Level One**

A. Module 26101-02. Electrical Safety

1. Demonstrate safe working procedures in a construction environment.

2. Explain the purpose of OSHA and how it promotes safety on the job.

3. Identify electrical hazards and how to avoid or minimize them in the workplace.

4. Explain:

a. safety issues concerning lockout/tagout procedures;

b. personal protection using assured grounding and isolation programs, confined space entry, respiratory protection; and

c. fall protection systems.

B. Module 26102-02. Hand Bending

1. Identify the methods of hand bending conduit.

2. Identify the various methods used to install conduit.

3. Use math formulas to determine conduit bends.

4. Make 90° bends, back-to-back bends, offsets, kicks, and saddle bends using a hand bender.

5. Cut, ream, and thread conduit.

C. Module 26103-02. Fasteners and Anchors

1. Identify and explain the use of threaded fasteners.

2. Identify and explain the use of non-threaded fasteners.

3. Identify and explain the use of anchors.

4. Demonstrate the correct applications for fasteners and anchors.

5. Install fasteners and anchors.

D. Module 26104-02. Electrical Theory One

1. Recognize what atoms are and how they are constructed.

2. Define voltage and identify the ways in which it can be produced.

3. Explain the difference between conductors and insulators.

4. Define the units of measurement that are used to measure the properties of electricity.

5. Explain how voltage, current, and resistance are related to each other.

6. Using the formula for Ohm's Law, calculate an unknown value.

7. Explain the different types of meters used to measure voltage, current, and resistance.

8. Using the power formula, calculate the amount of power used by a circuit.

E. Module 26105-02. Electrical Theory Two

1. Explain the basic characteristics of a series circuit.

2. Explain the basic characteristics of a parallel circuit.

3. Explain the basic characteristics of a series-parallel circuit.

4. Calculate, using Kirchoff's Voltage Law, the voltage drop in series, parallel, and series-parallel circuits.

5. Calculate, using Kirchoff's Current Law, the total current in parallel and series-parallel circuits.

6. Find the total amount of resistance in a series circuit.

7. Find the total amount of resistance in a parallel circuit.

8. Find the total amount of resistance in a series-parallel circuit.

F. Module 26106-02. Electrical Test Equipment

1. Explain the operation of and describe the following pieces of test equipment:

- a. ammeter;
- b. ohmmeter;
- c. wattmeter;
- d. frequency meter;
- e. continuity tester;
- f. recording instruments;
- g. voltmeter;
- h. volt-ohm-millimeter (VOM);
- i. megohmmeter;
- j. power factor meter;
- k. voltage tester;
- l. cable-length meters.

2. Explain how to read and convert from one scale to another using the test equipment listed in Subparagraphs a-l above.

3. Explain the importance of proper meter polarity.

4. Define frequency and explain the use of a frequency meter.

5. Explain the difference between digital and analog meters.

G. Module 26107-02. Introduction to The National Electrical Code®

1. Explain the purpose and history of the National Electrical Code® (NEC®).

2. Describe the layout of the NEC®.

3. Explain how to navigate the NEC®.

4. Describe the purpose of the National Electrical Manufacturers' Association (NEMA) and the National Fire Protection Association (NFPA).

5. Explain the role of testing laboratories.

H. Module 26108-02. Raceways, Boxes, and Fittings

1. Describe various types of cable trays and raceways.

2. Identify and select various types and sizes of raceways.

3. Identify and select various types and sizes of cable trays.

4. Identify and select various types of raceway fittings.

5. Identify various methods used to install raceways.

6. Demonstrate knowledge of NEC® raceway requirements.

7. Describe procedures for installing raceways and boxes on masonry surfaces.

8. Describe procedures for installing raceways and boxes on concrete surfaces.

9. Describe procedures for installing raceways and boxes in a metal stud environment.

10. Describe procedures for installing raceways and boxes in a wood frame environment.

11. Describe procedures for installing raceways and boxes on drywall surfaces.

12. Recognize safety precautions that must be followed when working with boxes and raceways.

I. Module 26109-02. Conductors

1. Explain the various sizes and gauges of wire in accordance with American Wire Gauge standards.

2. Identify insulation and jacket types according to conditions and applications.

3. Describe voltage ratings of conductors and cables.

4. Read and identify markings on conductors and cables.

5. Use the tables in the NEC® to determine the ampacity of a conductor.

6. State the purpose of stranded wire.

7. State the purpose of compressed conductors.

8. Describe the different materials from which conductors are made.

9. Describe the different types of conductor insulation.

10. Describe the color coding of insulation.

11. Describe instrumentation control wiring.

12. Describe the equipment required for pulling wire through conduit.

13. Describe the procedure for pulling wire through conduit.

14. Install conductors in conduit.

15. Pull conductors in a conduit system.

J. Module 26110-02. Introduction to Electrical Blueprints

1. Explain the basic layout of a blueprint.

2. Describe the information included in the title block of a blueprint.

3. Identify the types of lines used on blueprints.

4. Identify common symbols used on blueprints.

5. Understand the use of architect's and engineer's scales.

6. Interpret electrical drawings, including:

- a. site plans;
- b. floor plans; and
- c. detail drawings.

7. Read equipment schedules found on electrical blueprints.

8. Describe the type of information included in electrical specifications.

K. Module 26111-02. Wiring: Commercial and Industrial

1. Identify and state the functions and ratings of single-pole, double-pole, three-way, four-way, dimmer, special, and safety switches.

2. Explain NEMA classifications as they relate to switches and enclosures.

3. Explain the NEC® requirements concerning wiring devices.

4. Identify and state the functions and ratings of straight blade, twist lock, and pin and sleeve receptacles.

5. Identify and define receptacle terminals and disconnects.

6. Identify and define ground fault circuit interrupters.

7. Explain the box mounting requirements in the NEC®.

8. Use a wire stripper to strip insulation from a wire.

9. Use a solderless connector to splice wires together.

10. Identify and state the functions of limit switches and relays.

11. Identify and state the function of switchgear.

L. Module 26112-02. Wiring: Residential

1. Describe how to determine electric service requirements for dwellings.
2. Explain the grounding requirements of a residential electric service.
3. Calculate and select service-entrance equipment.
4. Select the proper wiring methods for various types of residences.
5. Explain the role of the NEC® in residential wiring.
6. Compute branch circuit loads and explain their installation requirements.
7. Explain the types and purposes of equipment grounding conductors.
8. Explain the purpose of ground fault circuit interrupters and tell where they must be installed.
9. Size outlet boxes and select the proper type for different wiring methods.
10. Describe rules for installing electric space heating and HVAC equipment.
11. Describe the installation rules for electrical systems around swimming pools, spas, and hot tubs.
12. Explain how wiring devices are selected and installed.
13. Describe the installation and control of lighting fixtures.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

**§503. Level Two**

A. Module 26201-03. Alternating Current

1. Calculate the peak and effective voltage or current values for an AC waveform.
2. Calculate the phase relationship between two AC waveforms.
3. Describe the voltage and current phase relationship in a resistive AC circuit.
4. Describe the voltage and current transients that occur in an inductive circuit.
5. Define inductive reactance and state how it is affected by frequency.
6. Describe the voltage and current transients that occur in a capacitive circuit.
7. Define capacitive reactance and state how it is affected by frequency.
8. Explain the relationship between voltage and current in the following types of AC circuits:
  - a. RL circuit;
  - b. LC circuit;
  - c. RC circuit;
  - d. RLC circuit.
9. Describe the effect that resonant frequency has on impedance and current flow in a series or parallel resonant circuit.
10. Define bandwidth and describe how it is affected by resistance in a series or parallel resonant circuit.
11. Explain the following terms as they relate to AC circuits:
  - a. true power;
  - b. reactive power;
  - c. apparent power;
  - d. power factor.

12. Explain basic transformer action.

B. Module 26202-03. Motors: Theory and Application

1. Define the following terms:
  - a. ampacity;
  - b. branch circuit;
  - c. circuit breaker;
  - d. controller;
  - e. duty;
  - f. equipment;
  - g. full-load amps;
  - h. remote control circuit;
  - i. interrupting rating;
  - j. motor circuit switch;
  - k. thermal protector;
  - l. NEMA design letter;
  - m. nonautomatic;
  - n. overcurrent;
  - o. overload;
  - p. power factor;
  - q. rated full-load speed;
  - r. rated horsepower;
  - s. ground fault circuit interrupter;
  - t. service factor;
  - u. thermal cutout.

2. Describe the various types of motor enclosures.

3. Describe how the rated voltage of a motor differs from the system voltage.

4. Describe the basic construction and components of a three-phase squirrel cage induction motor.

5. Explain the relationships among speed, frequency, and the number of poles in a three-phase induction motor.

6. Describe how torque is developed in an induction motor.

7. Explain how and why torque varies with rotor reactance and slip.

8. Define percent slip and speed regulation.

9. Explain how the direction of a three-phase motor is reversed.

10. Describe the component parts and operating characteristics of a three-phase wound-rotor induction motor.

11. Describe the component parts and operating characteristics of a three-phase synchronous motor.

12. Define torque, starting current, and armature reaction as they apply to DC motors.

13. Explain how the direction of rotation of a DC motor is changed.

14. Describe the design and characteristics of a DC shunt, series, and compound motor.

15. Describe dual-voltage motors and their applications.

16. Describe the methods for determining various motor connections.

17. Describe general motor protection requirements as delineated in the NEC®.

C. Module 26203-03. Grounding

1. Explain the purpose of grounding and the scope of NEC Article 250.

2. Distinguish between a short circuit and a ground fault.

3. Define the NEC® ground-related terms.

4. Distinguish between system grounding and equipment grounding.



5. Use NEC® Table 250.66 to size the grounding electrode conductor for various AC systems.

6. Explain the NEC® requirements for the installation and physical protection of grounding electrode conductors.

7. Explain the function of the grounding electrode system and determine which grounding electrodes must be used.

8. Define electrodes and explain the resistance requirements for electrodes using NEC® Section 250.56.

9. Use NEC® Table 250.122 to size the equipment grounding conductor for raceways and equipment.

10. Explain the function of the main bonding jumper in the grounding system and size the main bonding jumper for various applications.

11. Size the main bonding jumper for a service utilizing multiple service disconnecting means.

12. Explain the NEC® requirements for bonding of enclosures and equipment.

13. Explain the NEC® requirements for grounding of enclosures and equipment.

14. Explain effectively grounded and its importance in clearing ground faults and short circuits.

15. Explain the purposes of the grounded conductor (neutral) in the operation of overcurrent devices.

16. Explain the NEC® requirements for grounding separately-derived systems, including transformers and generators.

17. Explain the NEC® requirements for grounding at more than one building.

18. Explain the NEC® grounding requirements for systems over 600 volts.

#### D. Module 26204-03. Conduit Bending

1. Describe the process of conduit bending using power tools.

2. Identify all parts of popular electric and hydraulic benders.

3. Avoid excessive waste when working with conduit systems.

4. Bend offsets, kicks, saddles, segmented, and parallel bends.

5. Explain the requirements of the NEC® for bending conduit.

6. Compute the radius, degrees in bend, developed length, and gain for conduit up to 6 inches.

7. Explain how to correct damaged conduit and modify existing bends.

#### E. Module 26205-03. Boxes and Fittings

1. Describe the different types of nonmetallic and metallic boxes.

2. Understand the NEC® requirements for box fill.

3. Calculate the required box size for any number and size of conductors.

4. Explain the NEC® regulations for volume required per conductor in outlet boxes.

5. Properly locate, install, and support boxes of all types.

6. Describe the NEC® regulations governing pull and junction boxes.

7. Explain the radius rule when installing conductors in pull boxes.

8. Understand the NEC® requirements for boxes supporting lighting fixtures.

9. Describe the purpose of conduit bodies and Type FS boxes.

10. Install the different types of fittings used in conjunction with boxes.

11. Describe the installation rules for installing boxes and fittings in hazardous areas.

12. Explain how boxes and fittings are selected and installed.

13. Describe the various types of box supports.

#### F. Module 26206-03. Conductor Installations

1. Describe the various methods of installing conductors in conduit.

2. Plan and set up for a cable pull.

3. Understand the importance of selecting the proper location for cable pulls.

4. Describe how cable reels are transported to the pulling site.

5. Set up reel stands and spindles for a wire-pulling installation.

6. Explain how mandrels, swabs, and brushes are used to prepare conduit for conductors.

7. Properly install a pull line for a cable-pulling operation.

8. Explain the operation of power fish tape systems.

9. Prepare the ends of conductors for pulling.

10. Describe the types of cable pullers.

11. Describe the process of high-force cable pulling.

12. Explain how to support conductors in vertical conduit runs.

13. Describe the installation of cables in cable trays.

14. Explain the importance of communication during a cable-pulling operation.

15. Calculate the probable stress or tension in cable pulls.

#### G. Module 26207-03. Cable Tray

1. Describe the components that make up a cable tray assembly.

2. Explain the methods used to hang and secure cable tray.

3. Describe how cable enters and exits cable tray.

4. Select the proper cable tray fitting for the situation.

5. Explain the NEMA standards for cable tray installations.

6. Explain the NEC® requirements for cable tray installations.

7. Select the required fittings to ensure equipment grounding continuity in cable tray systems.

8. Interpret electrical working drawings showing cable tray fittings.

9. Size cable tray for the number and type of conductors contained in the system.

10. Select rollers and sheaves for pulling cable in specific cable tray situations.

11. Designate the required locations of rollers and sheaves for a specific cable pull.

H. Module 26208-03. Conductor Terminations and Splices

1. Describe how to make a good conductor termination.

2. Prepare cable ends for terminations and splices.

3. Install lugs and connectors onto conductors.

4. Train cable at termination points.

5. Explain the role of the NEC® in making cable terminations and splices.
  6. Explain why mechanical stress should be avoided at cable termination points.
  7. Describe the importance of using proper bolt torque when bolting lugs onto busbars.
  8. Describe crimping techniques.
  9. Select the proper lug or connector for the job.
  10. Describe splicing techniques.
  11. Explain how to use hand and power crimping tools.
- I. Module 26209-03. Installation of Electric Services
1. Describe various types of electric services for commercial and industrial installations.
  2. Read electrical blueprints and diagrams describing service installations.
  3. Calculate and select service-entrance equipment.
  4. Explain the role of the NEC® in service installations.
  5. Install main disconnect switches, panelboards, and overcurrent protection devices.
  6. Identify the circuit loads, number of circuits required, and installation requirements for distribution panels.
  7. Explain the types and purposes of service grounding.
  8. Explain the purpose and required location(s) of ground fault circuit interrupters.
  9. Describe single-phase service connections.
  10. Describe both wye- and delta-connected three-phase services.
- J. Module 26210-03. Circuit Breakers and Fuses
1. Explain the necessity of overcurrent protection devices in electrical circuits.
  2. Define the terms associated with fuses and circuit breakers.
  3. Describe the operation of a circuit breaker.
  4. Select the most suitable overcurrent device for the application.
  5. Explain the role of the NEC® in specifying overcurrent devices.
  6. Describe the operation of single-element and time-delay fuses.
  7. Explain how ground fault circuit interrupters (GFCIs) can save lives.
  8. Calculate short circuit currents.
  9. Describe troubleshooting and maintenance techniques for overcurrent devices.
- K. Module 26211-03. Contactors and Relays
1. Describe the operating principles of contactors and relays.
  2. Select contactors and relays for use in specific electrical systems.
  3. Explain how mechanical contactors operate.
  4. Explain how solid-state contactors operate.
  5. Install contactors and relays according to the NEC® requirements.
  6. Select and install contactors and relays for lighting control.
  7. Read wiring diagrams involving contactors and relays.
  8. Describe how overload relays operate.
  9. Connect a simple control circuit.

10. Test control circuits.
- L. Module 26212-03. Electric Lighting
1. Explain how the human eye works.
  2. Describe the characteristics of light.
  3. Recognize the different kinds of lamps and explain the advantages and disadvantages of each type:
    - a. incandescent;
    - b. fluorescent;
    - c. halogen;
    - d. high-intensity discharge (HID).
  4. Properly select and install lamps into lighting fixtures.
  5. Recognize and install various types of lighting fixtures:
    - a. surface-mounted;
    - b. suspended;
    - c. recessed;
    - d. track-mounted.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

**§505. Level Three**

A. Module 26301-02. Load Calculators—Branch and Feeder Circuits

1. Calculate loads for single-phase and three-phase branch circuits.
2. Size branch circuit overcurrent protection devices (circuit breakers and fuses) for noncontinuous duty and continuous duty circuits.
3. Apply derating factors to size branch circuits.
4. Calculate ampacity for single-phase and three-phase loads.
5. Use load calculations to determine branch circuit conductor sizes.
6. Use NEC® Table 220-19 to calculate residential cooking equipment loads.
7. Select branch circuit conductors and overcurrent protection devices for:
  - a. electric heat;
  - b. air conditioning equipment;
  - c. motors; and
  - d. welders.

B. Module 26302-02. Conductor Selection and Calculations

1. Select electrical conductors for specific applications.
2. Calculate voltage drop in both single-phase and three-phase applications.
3. Apply NEC® regulations governing conductors to a specific application.
4. Calculate and apply NEC® tap rules to a specific application.
5. Size conductors for the load.
6. Derate conductors for fill, temperature, and voltage drop.
7. Select conductors for various temperature ranges and atmospheres.

C. Module 26303-02. Overcurrent Protection

1. Apply the key NEC® requirements regarding overcurrent protection.

2. Check specific applications for conformance to NEC® sections that cover short circuit current, fault currents, interrupting ratings, and other sections relating to overcurrent protection.

3. Determine let-through current values (peak and rms) when current-limiting overcurrent devices are used.

4. Select and size overcurrent.

D. Module 26304-02. Raceway, Box, and Fitting Fill Requirements

1. Size raceways according to conductor fill and NEC installation requirements.

2. Size outlet boxes according to NEC® installation requirements.

3. Size and select pull and junction boxes according to NEC® installation requirements.

4. Calculate conduit fill using a percentage of the trade size conduit inside diameter (ID).

5. Calculate the required bending radius in boxes and cabinets.

E. Module 26305-02. Wiring Devices

1. Select wiring devices according to the National Electrical Manufacturers' Association (NEMA) classifications.

2. Size wiring devices in accordance with NEC® requirements.

3. Discuss the NEMA enclosure classifications.

4. Follow NEC® regulations governing the installation of wiring devices.

5. Explain the types and purposes of grounding wiring devices.

6. Determine the maximum load allowed on specific wiring devices.

F. Module 26306-02. Distribution Equipment

1. Describe the purpose of switchgear.

2. Describe the four general classifications of circuit breakers and list the major circuit breaker ratings.

3. Describe switchgear construction, metering layouts, wiring requirements, and maintenance.

4. List NEC® requirements pertaining to switchgear.

5. Describe the visual and mechanical inspections and electrical tests associated with low-voltage and medium-voltage cables, metal-enclosed busways, and metering and instrumentation.

6. Describe a ground fault relay system and explain how to test it.

G. Module 26307-02. Distribution System Transformers

1. Describe transformer operation.

2. Explain the principle of mutual induction.

3. Describe the operating characteristics of various types of transformers.

4. Connect a multi-tap transformer for the required secondary voltage.

5. Explain NEC® requirements governing the installation of transformers.

6. Compute transformer sizes for various applications.

7. Explain types and purposes of grounding transformers.

8. Connect a control transformer for a given application.

9. Size the maximum load allowed on open delta systems.

10. Describe how current transformers are used in conjunction with watt-hour meters.

11. Apply capacitors and rectifiers to practical applications.

12. Calculate the power factor of any given electrical circuit.

H. Module 26308-02. Lamps, Ballasts, and Components

1. Recognize incandescent, fluorescent, and high-intensity discharge (HID) lamps and describe how each type of lamp operates.

2. Recognize ballasts and describe their purpose for use in fluorescent and HID lighting fixtures.

3. Explain the relationship of Kelvin temperature to the color of light produced by a lamp.

4. Recognize basic occupancy sensors, photoelectric sensors, and timers used to control lighting circuits and describe how each device operates.

5. Use troubleshooting checklists to troubleshoot fluorescent and HID lamps and lighting fixtures.

I. Module 26309-02. Motor Calculations

1. Size branch circuits and feeders for electric motors.

2. Size and select overcurrent protective devices for motors.

3. Size and select overload relays for electric motors.

4. Size and select devices to improve the power factor at motor locations.

5. Size motor short circuit protectors.

6. Size multi-motor branch circuits.

7. Size motor disconnects.

J. Module 26310-02. Motor Maintenance, Part One

1. Properly store motors and generators.

2. Test motors and generators.

3. Make connections for specific types of motors and generators.

4. Clean open-frame motors.

5. Lubricate motors that require this type of maintenance.

6. Collect and record motor data.

7. Select tools for motor maintenance.

8. Select instruments for motor testing.

K. Module 26311-02. Motor Controls

1. Identify contactors and relays both physically and schematically and describe their operating principles.

2. Identify pilot devices both physically and schematically and describe their operating principles.

3. Interpret motor control wiring, connection, and ladder diagrams.

4. Select and size contactors and relays for use in specific electrical motor control systems.

5. Select and size pilot devices for use in specific electrical motor control systems.

6. Connect motor controllers for specific applications according to NEC® requirements.

L. Module 26312-02. Hazardous Locations

1. Define the various classifications of hazardous locations.

2. Describe the wiring methods permitted for branch circuits and feeders in specific hazardous locations.

3. Select seals and drains for specific hazardous locations.

4. Select wiring methods for Class I, Class II, and Class III hazardous locations.

5. Follow NEC® requirements for installing explosionproof fittings in specific hazardous locations.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

#### §507. Level Four

A. Module 26401-03. Load Calculations–Feeders and Services

1. Size feeders and services in accordance with NEC® requirements.

2. Calculate loads and ampacities for single-phase and three-phase feeders.

3. Understand and apply derating factors to size feeders.

4. Size feeder overcurrent protection devices (circuit breakers and fuses) for non-continuous duty and continuous duty loads.

5. Understand and apply tap rules.

6. Calculate loads for a retail store with a show window.

7. Calculate loads for an office building.

8. Calculate loads for both single-family and multi-family dwellings.

9. Calculate loads for a restaurant.

10. Calculate loads for hotels and motels.

11. Calculate loads for schools and other institutional projects.

12. Perform feeder and service calculations for farms.

13. Calculate the power and supply feeders for marinas and boatyards.

14. Calculate electric motor loads on feeders.

B. Module 26402-03. Practical Applications of Lighting

1. Explain how the lighting terms lumen, candlepower, and footcandle relate to one another.

2. Classify lighting fixtures by layout, location, fixture type, and type of service.

3. Identify the basic design configurations of incandescent, fluorescent, and HID lighting fixtures and describe the general lighting pattern (direct, indirect, etc.) produced by each type.

4. Identify the main lighting requirements associated with lighting systems used in selected applications such as office buildings, schools, theaters, etc.

5. Identify the special wiring and dimming system components used with incandescent, fluorescent, and HID lighting systems.

6. Use manufacturer's lighting fixture catalogs to select the appropriate lighting fixtures for specific lighting applications.

C. Module 26403-03. Standby and Emergency Systems

1. Explain the basic differences between emergency systems, legally required standby systems, and optional standby systems.

2. Describe the operating principles of an engine-driven standby AC generator.

3. Describe the different types and characteristics of standby and emergency generators.

4. Recognize and describe the operating principles of both automatic and manual transfer switches.

5. Recognize the different types of storage batteries used in emergency and standby systems and explain how batteries charge and discharge.

6. For selected types of batteries, describe their characteristics, applications, maintenance, and testing.

7. Recognize double-conversion and single-conversion types of uninterruptible power supplies (UPSs) and describe how they operate.

8. Describe the NEC requirements that pertain to the installation of standby and emergency power systems.

D. Module 26404-03. Basic Electronic Theory

1. Identify electronic system components.

2. Describe the electrical characteristics of solid-state devices.

3. Describe the basic materials that make up solid-state devices.

4. Describe and identify the various types of transistors, and explain how they operate.

5. Interpret electronic schematic diagrams.

6. Describe and connect diodes.

7. Describe and connect light-emitting diodes (LEDs).

8. Describe and connect silicon-controlled rectifiers (SCRs).

9. Identify the leads of various solid-state devices.

E. Module 26405-03. Fire Alarm Systems

1. Understand the unique terminology associated with fire alarm systems.

2. Describe the relationship between fire alarm systems and life safety.

3. Identify and explain the role that various codes and standards play in both commercial and residential fire alarm applications.

4. Describe the characteristics and functions of various fire alarm system components.

5. Explain and describe the different types of circuitry that connect fire alarm system components.

6. Describe the theory behind conventional, addressable, and analog fire alarm systems and explain how these systems function.

F. Module 26406-03. Specialty Transformers

1. Identify power transformer connections.

2. Identify specialty transformers.

3. Size and select buck-and-boost transformers.

4. Connect current and potential transformers.

5. Calculate and install overcurrent protection for specialty transformers.

6. Ground specialty transformers according to NEC® requirements.

7. Size, install, and connect control, shielded, constant-current, and other specialty transformers.

8. Check additive and subtractive polarities.

9. Derate transformers to account for the effects of harmonics.

G. Module 26407-03. Advanced Motor Controls

1. Select and install solid-state relays for specific applications in motor control circuits.

2. Install non-programmable/programmable motor circuit protectors (solid-state overload relays) in accordance with the manufacturer's instructions.

3. Select and install electromechanical and solid-state timing relays for specific applications in motor control circuits.

4. Recognize the different types of reduced-voltage starting motor controllers and describe their operating principles.

5. Connect and program adjustable frequency drives to control a motor in accordance with the manufacturer's instructions.

6. Demonstrate and/or describe the special precautions used when handling and working with solid-state motor controls.

7. Recognize common types of motor braking and explain the operating principles of motor brakes.

8. Perform preventive maintenance and troubleshooting tasks in motor control circuits.

#### H. Module 26408-03. HVAC Controls

1. Identify the major mechanical components common to all HVAC systems.

2. Explain the function of a thermostat in an HVAC system.

3. Describe different types of thermostats and explain how they are used.

4. Demonstrate the correct installation and adjustment of a thermostat using proper siting and wiring techniques.

5. Explain the basic principles applicable to all control systems.

6. Identify the various types of electromechanical and electronic HVAC controls, and explain their function and operation.

7. State the NEC® requirements applicable to HVAC controls.

#### I. Module 26409-03. Heat Tracing and Freeze Protection

1. Identify and describe the purpose for electric heat tracing equipment used with pipelines and vessels.

2. Select, size, and install electric heat tracing equipment on selected pipelines and vessels in accordance with the manufacturer's instructions and NEC® requirements.

3. Identify and describe the purpose for electric heating equipment used with roof, gutter, and downspout de-icing systems.

4. Select, size, and install selected roof, gutter, and downspout de-icing systems in accordance with the manufacturer's instructions and NEC® requirements.

5. Identify and describe the purpose for electric heating equipment used with snow-melting and anti-icing systems.

6. Select, size, and install selected snow-melting and anti-icing systems in accordance with the manufacturer's instructions and NEC® requirements.

7. Identify and describe the purpose for electric heat tracing equipment used with domestic hot-water temperature maintenance systems.

8. Select, size, and install selected electric heat traced domestic hot-water systems in accordance with the manufacturer's instructions and NEC® requirements.

9. Identify and describe the purpose for electric floor heating/warming systems.

10. Select, size, and install selected electric floor heating/warming systems in accordance with the manufacturer's instructions and NEC® requirements.

#### J. Module 26410-03. Motor Maintenance, Part Two

1. Test motor winding resistance.

2. Select and use motor testing equipment.

3. Clean and test open frame motors.

4. Clean, dry, and test motors that have been subjected to water damage.

5. Troubleshoot and repair electric motors.

#### K. Module 26411-03. High Voltage Terminations/Splices

1. Select proper materials and tools for high-voltage terminations and splices.

2. Prepare high-voltage cable for terminations and splices.

3. Complete cable assemblies with terminations and splices.

4. Inspect and test high-voltage terminations and splices.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

### **Chapter 7. Heating, Ventilation and Air Conditioning Competencies/Objectives**

#### **§701. Level One**

##### A. Module 03101-01. Introduction to Heating, Ventilation and Air Conditioning (HVAC)

1. Explain the basic principles of heating, ventilation, and air conditioning.

2. Identify career opportunities available to people in the HVAC trade.

3. Explain the purpose and objectives of an apprentice training program.

4. Describe how certified apprentice training can start in high school.

5. Describe what the Clean Air Act means to the HVAC trade.

##### B. Module 03102-01. Trade Mathematics

1. Identify similar units of measurement in both the inch-pound (English) and metric systems and know which units are larger.

2. Convert measured values in the inch-pound system to equivalent metric values and vice versa.

3. Express numbers as powers of 10.

4. Determine the powers and roots of numbers.

5. Solve basic algebraic equations.

6. Recognize various geometric figures.

7. Use the Pythagorean theorem to make calculations involving right triangles.

8. Convert decimal feet to feet and inches and vice versa.

##### C. Module 03103-01. Tools of the Trade

1. Identify and state the use of the following tools:

a. pipe wrenches;

b. torque wrenches;

c. tinner's and soft-faced hammers;

d. hand cutting snips;

e. hand and power hacksaws;

f. drill press;

g. measuring tools.

2. Describe the general procedures for maintenance of most hand and power tools.

3. Describe or demonstrate the general safety precautions that must be followed when using most hand and power tools.

D. Module 03104-01. Copper and Plastic Piping Practices

1. State the precautions that must be taken when installing refrigerant piping.

2. Select the right tubing for a job.

3. Cut and bend tubing.

4. Safely join tubing by using flare and compression fittings.

5. Determine the kinds of hangers and supports needed for refrigerant piping.

6. State the basic requirements for pressure-testing a system once it has been installed.

E. Module 03105-01. Soldering and Brazing

1. Assemble and operate the tools used for soldering.

2. Prepare tubing and fittings for soldering.

3. Identify the purposes and uses of solder and solder fluxes.

4. Solder copper tubing and fittings.

5. Assemble and operate the tools used for brazing.

6. Prepare tubing and fittings for brazing.

7. Identify the purposes and uses of filler metals and fluxes used for brazing.

8. Braze copper tubing and fittings.

9. Identify the inert gases that can safely be used to purge tubing when brazing.

F. Module 03106-01. Ferrous Metal Piping Practices

1. Identify the types of ferrous metal pipes.

2. Measure the sizes of ferrous metal pipes.

3. Identify the common malleable iron fittings.

4. Cut, ream, and thread ferrous metal pipe.

5. Join lengths of threaded pipe together and install fittings.

6. Describe the main points to consider when installing pipe runs.

7. Describe the method used to join grooved piping.

G. Module 03107-01. Basic Electricity

1. State how electrical power is generated and distributed.

2. Describe how voltage, current, resistance, and power are related.

3. Use Ohm's law to calculate the current, voltage, and resistance in a circuit.

4. Use the power formula to calculate how much power is consumed by a circuit.

5. Describe the differences between series and parallel circuits.

6. Recognize and describe the purpose and operation of the various electrical components used in HVAC equipment.

7. State and demonstrate the safety precautions that must be followed when working on electrical equipment.

8. Make voltage, current, and resistance measurements using electrical test equipment.

H. Module 03108-01. Introduction to Cooling

1. Explain how heat transfer occurs in a cooling system, demonstrating an understanding of the terms and concepts used in the refrigeration cycle.

2. Calculate the temperature and pressure relationships at key points in the refrigeration cycle.

3. Under supervision, use temperature- and pressure-measuring instruments to make readings at key points in the refrigeration cycle.

4. Identify commonly used refrigerants and demonstrate the procedures for handling these refrigerants.

5. Identify the major components of a cooling system and explain how each type works.

6. Identify the major accessories available for cooling systems and explain how each type works.

7. Identify the control devices used in cooling systems and explain how each type works.

8. State the correct methods to be used when piping a refrigeration system.

I. Module 03109-01. Introduction to Heating

1. Explain the three methods by which heat is transferred and give an example of each.

2. Describe how combustion occurs and identify the by-products of combustion.

3. Identify the various types of fuels used in heating.

4. Identify the major components and accessories of a forced-air furnace and explain the function of each component.

5. State the factors that must be considered when installing a furnace.

6. Identify the major components of a gas furnace and describe how each works.

7. With supervision, use a manometer to measure and adjust manifold pressure on a gas furnace.

8. Identify the major components of an oil furnace and describe how each works.

9. Describe how an electric furnace works.

10. With supervision, perform basic furnace preventive maintenance procedures such as cleaning and filter replacement.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

**§703. Level Two**

A. Module 03201-01. Air Distribution Systems

1. Describe the airflow and pressures in a basic forced-air distribution system.

2. Explain the differences between propeller and centrifugal fans and blowers.

3. Identify the various types of duct systems and explain why and where each type is used.

4. Demonstrate or explain the installation of metal, fiberboard, and flexible duct.

5. Demonstrate or explain the installation of fittings and transitions used in duct systems.

6. Demonstrate or explain the use and installation of diffusers, registers, and grilles used in duct systems.

7. Demonstrate or explain the use and installation of dampers used in duct systems.

8. Demonstrate or explain the use and installation of insulation and vapor barriers used in duct systems.

9. Identify the instruments used to make measurements in air systems and explain the use of each instrument.

10. Make basic temperature, air pressure, and velocity measurements in an air distribution system.

B. Module 03202-01. Chimneys, Vents, and Flues

1. Describe the principles of combustion and explain complete and incomplete combustion.

2. Describe the content of flue gas and explain how it is vented.

3. Identify the components of a furnace vent system.

4. Describe how to select and install a vent system.

5. Perform the adjustments necessary to achieve proper combustion in a gas furnace.

6. Describe the techniques for venting different types of furnaces.

7. Explain the various draft control devices used with natural-draft furnaces.

C. Module 03203-01. Maintenance Skills for the Service Technician

1. Identify the types of threaded and non-threaded fasteners and explain their use.

2. Install threaded and non-threaded fasteners.

3. Identify the types of gaskets, packings, and seals and explain their use.

4. Remove and install gaskets, packings, and seals.

5. Identify the types of lubricants and explain their use.

6. Use lubrication equipment to lubricate motor bearings.

7. Identify the types of belt drives and explain their use.

8. Demonstrate and/or explain procedures used to install or adjust a belt drive.

9. Identify the types of couplings and explain their use.

10. Demonstrate and/or explain procedures used to remove, install, and align couplings.

11. Identify the types of bearings and explain their use.

12. Explain causes of bearing failures.

13. Demonstrate and/or explain procedures used to remove and install bearings.

14. Perform basic preventive maintenance inspection and cleaning procedures.

15. List work and personal habits that contribute to good customer relations.

16. Identify steps in the handling of a typical service call that will contribute to good customer relations.

17. Legibly fill out forms used for installation and service calls.

D. Module 03204-01. Alternating Current

1. Describe the operation of various types of transformers.

2. Explain how alternating current is developed and draw a sine wave.

3. Identify single-phase and three-phase wiring arrangements.

4. Explain how phase shift occurs in inductors and capacitors.

5. Describe the types of capacitors and their applications.

6. Explain the operation of single-phase and three-phase induction motors.

7. Identify the various types of single-phase motors and their applications.

8. Use a wattmeter, megger, capacitor analyzer, and chart recorder.

9. Test inductors and capacitors using an ohmmeter.

10. State and demonstrate the safety precautions that must be followed when working with electrical equipment.

E. Module 03205-01. Basic Electronics

1. Explain the basic theory of electronics and semiconductors.

2. Explain how various semiconductor devices such as diodes, LEDs, and photo diodes work, and how they are used in power and control circuits.

3. Identify different types of resistors and explain how their resistance values can be determined.

4. Describe the operation and function of thermistors and cad cells.

5. Test semiconductor components.

6. Identify the connectors on a personal computer.

F. Module 03206-01. Electric Heating

1. Describe and explain the basic operation of a fan coil equipped with electric heating elements.

2. Identify and describe the functions of major components of a fan coil equipped with electric heating elements.

3. Identify and describe the functions of electric heating controls.

4. Measure resistances and check components and controls for operation and safety.

5. Determine the cubic feet per minute (cfm) using the temperature rise method.

6. Describe and explain the basic operation of other electric heating systems.

G. Module 03207-01. Introduction to Control Circuit Troubleshooting

1. Explain the function of a thermostat in an HVAC system.

2. Describe different types of thermostats and explain how they are used.

3. Demonstrate the correct installation and adjustment of a thermostat using proper siting and wiring techniques.

4. Explain the basic principles applicable to all control systems.

5. Identify the various types of electromechanical, electronic, and pneumatic HVAC controls, and explain their function and operation.

6. Describe a systematic approach for electrical troubleshooting of HVAC equipment and components.

7. Recognize and use equipment manufacturer's troubleshooting aids to troubleshoot HVAC equipment.

8. Exhibit competence in isolating electrical problems to faulty power distribution, load, or control circuits.

9. Identify the service instruments needed to troubleshoot HVAC electrical equipment.

10. Make electrical troubleshooting checks and measurements on circuits and components common to all HVAC equipment.

H. Module 03208-01. Accessories and Optional Equipment

1. Explain how heat transfer by conduction, convection, radiation, and evaporation relates to human comfort.

2. Explain why it is important to control humidity in a building.

3. Recognize the various kinds of humidifiers used with HVAC systems and explain why each is used.
  4. Demonstrate or describe how to install and service the humidifiers used in HVAC systems.
  5. Recognize the kinds of air filters used with HVAC systems and explain why each is used.
  6. Demonstrate or describe how to install and service the filters used in HVAC systems.
  7. Use a manometer or differential pressure gauge to measure the friction loss of an air filter.
  8. Identify accessories commonly used with air conditioning systems to improve indoor air quality and reduce energy cost, and explain the function of each.
- I. Module 03209-01. Metering Devices
1. Explain the function of metering devices.
  2. Describe the operation of selected metering devices and expansion valves.
  3. Identify types of thermal expansion valves (TXVs).
  4. Describe problems associated with replacement of TXVs.
  5. Describe the procedure for installing and adjusting selected TXVs.
- J. Module 03210-01. Compressors
1. Identify the different kinds of compressors.
  2. Demonstrate or describe the mechanical operation for each type of compressor.
  3. Demonstrate or explain compressor lubrication methods.
  4. Demonstrate or explain methods used to control compressor capacity.
  5. Demonstrate or describe how compressor protection devices operate.
  6. Perform the common procedures used when field servicing open and semi-hermetic compressors:
    - a. shaft seal removal and installation;
    - b. valve plate removal and installation;
    - c. unloader adjustment.
  7. Demonstrate the procedures used to identify system problems that cause compressor failures.
  8. Demonstrate the system checkout procedure performed following a compressor failure.
  9. Demonstrate or describe the procedures used to remove and install a compressor.
  10. Demonstrate or describe the procedures used to clean up a system after a compressor burnout.
- K. Module 03211-01. Heat Pumps
1. Describe the principles of reverse-cycle heating.
  2. Identify heat pumps by type and general classification.
  3. List the components of heat pump systems.
  4. Demonstrate heat pump installation and service procedures.
  5. Identify and install refrigerant circuit accessories commonly associated with heat pumps.
  6. Analyze a heat pump control circuit.
- L. Module 03212-01. Leak Detection, Evacuation, Recovery, and Charging
1. Identify the common types of leak detectors and explain how each is used.
  2. Demonstrate skill in performing leak detection tests.

3. Identify the service equipment used for evacuating a system and explain why each item of equipment is used.
4. Demonstrate skill in performing system evacuation and dehydration.
5. Identify the service equipment used for recovering refrigerant from a system and for recycling the recovered refrigerant, and explain why each item of equipment is used.
6. Demonstrate skill in performing refrigerant recovery.
7. Demonstrate or explain how to use a recycle unit.
8. Identify the service equipment used for charging refrigerant into a system, and explain why each item of equipment is used.
9. Demonstrate skill in charging refrigerant into a system.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

**§705. Level Three**

- A. Module 03301-02. Planned Maintenance
1. Describe planned maintenance and service procedures required for selected HVAC equipment and components.
  2. Develop a planned maintenance and service checklist for selected HVAC equipment and accessories.
  3. Perform identified service and maintenance tasks on selected HVAC equipment, components, and accessories.
  4. Identify the tools and materials necessary for performing service and maintenance tasks.
  5. State the safety practices associated with the servicing of selected HVAC equipment, components, and accessories.
- B. Module 03302-02. Troubleshooting Gas Heating
1. Describe the basic operating sequence for natural-draft and induced-draft gas heating equipment.
  2. Demonstrate skill in interpreting control circuit diagrams for gas heating systems.
  3. Develop a troubleshooting chart for a gas heating system.
  4. Identify the tools and instruments used when troubleshooting gas heating systems.
  5. Demonstrate skill in using the tools and instruments required for troubleshooting gas heating systems.
  6. Isolate and correct malfunctions in gas heating systems.
- C. Module 03303-02. Troubleshooting Electric Heating
1. Explain the operating principles of various types of electric heating systems.
  2. Describe the ways in which electric heating systems and components are likely to fail.
  3. Analyze circuit diagrams to determine the operating sequence of a fan coil equipped with electric heaters.
  4. Determine the operating sequence of an electric heater package for a cooling unit or heat pump.
  5. Troubleshoot:
    - a. electric furnaces;
    - b. accessory heater packages;
    - c. baseboard heating systems;
    - d. duct heaters; and
    - e. radiant heating systems.



6. State the safety practices associated with the troubleshooting of selected electric heating systems.

D. Module 03304-02. Troubleshooting Oil Heating

1. Describe the basic operating sequence for oil-fired heating equipment.

2. Demonstrate skill in interpreting control circuit diagrams for oil heating systems.

3. Develop a troubleshooting chart for an oil heating system.

4. Identify the tools and instruments used in troubleshooting oil heating systems.

5. Demonstrate skill in using the tools and instruments required for troubleshooting oil heating systems.

6. Isolate and correct malfunctions in oil heating systems.

7. Describe the safety precautions that must be taken when servicing oil heating systems.

E. Module 03305-02. Troubleshooting Cooling

1. Describe a systematic approach for troubleshooting cooling systems and components.

2. Isolate problems to electrical and/or mechanical functions in cooling systems.

3. Recognize and use equipment manufacturer's troubleshooting aids to troubleshoot cooling systems.

4. Identify and use the service instruments needed to troubleshoot cooling systems.

5. Successfully troubleshoot selected problems in cooling equipment.

6. State the safety precautions associated with cooling troubleshooting.

F. Module 03306-02. Troubleshooting Heat Pumps

1. Describe the basic operating sequence for an air-to-air heat pump.

2. Demonstrate skill in interpreting control circuit diagrams for heat pumps.

3. Develop a troubleshooting chart for a heat pump.

4. Identify the tools and instruments used in troubleshooting heat pumps.

5. Demonstrate skill in using the tools and instruments required for troubleshooting heat pumps.

6. Isolate and correct malfunctions in heat pumps.

7. Describe the safety precautions associated with servicing heat pumps.

G. Module 03307-02. Troubleshooting Accessories

1. Describe a systematic approach for troubleshooting HVAC system accessories.

2. Exhibit competence in isolating problems to electrical and/or mechanical functions of HVAC system accessories.

3. Recognize and use equipment manufacturer's troubleshooting aids to troubleshoot HVAC system accessories.

4. Identify and properly use the service instruments needed to troubleshoot HVAC system accessories.

5. Successfully troubleshoot problems in selected HVAC system accessories.

6. State the safety precautions associated with the troubleshooting of HVAC accessories.

H. Module 03308-02. Troubleshooting Electronic Controls

1. Describe the similarities and differences between electronic controls and conventional controls.

2. Analyze circuit diagrams and other manufacturer's literature to determine the operating sequence of microprocessor-controlled systems.

3. Use standard and special test equipment to test a microprocessor-controlled comfort system.

I. Module 03309-02. Hydronic Heating and Cooling Systems

1. Explain the terms and concepts used when working with hot-water heating, steam heating, and chilled-water cooling systems.

2. Identify the major components of hot-water heating, steam heating, chilled-water cooling, and dual-temperature water systems.

3. Explain the purpose of each component of hot-water heating, steam heating, chilled-water cooling, and dual-temperature water systems.

4. Demonstrate the safety precautions used when working with hot-water/chilled-water systems.

5. Demonstrate or describe how to operate and balance selected hot-water and chilled-water systems.

6. Describe the basic steam heating cycle.

7. Demonstrate or describe how to safely perform selected operating procedures on low-pressure steam boilers and systems.

8. Demonstrate or describe how to install and maintain selected steam traps.

9. Identify the common piping configurations used with hot-water heating, steam heating, and chilled-water cooling systems.

10. Explain the principles involved, and describe the procedures used, in balancing hydronic systems.

11. Select, calibrate, and properly use the tools and instruments needed to balance hydronic systems.

12. Read the pressure across a water system circulating pump.

J. Module 03310-02. Airside Systems

1. Explain the operating principles of different types of commercial air systems.

2. Identify the components that make up a commercial air system.

3. Describe the functions of commercial air systems and their components.

4. Identify the type of building in which a particular type of system is used.

5. Explain the typical range of capacities for a commercial air system.

K. Module 03311-02. Air Properties and Air System Balancing

1. Explain the gas laws (Dalton, Boyle, and Charles) used when dealing with air and its properties.

2. Explain how the properties of air relate to one another.

3. Use a psychrometric chart to evaluate air properties and changes in air properties.

4. Explain the principles involved in the balancing of air distribution systems.

5. Define common terms used by manufacturers when describing grilles, registers, and diffusers.

6. Identify and use the tools and instruments needed to balance air distribution systems.

7. Demonstrate and/or describe the general procedures used to balance air distribution systems.

8. Demonstrate and/or describe the methods used to change the speed of air distribution system supply fans.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

#### **§707. Level Four**

A. Module 03401-03. Construction Drawings and Specifications

1. Read blueprints and architect's plans.
2. Compare mechanical plans with the actual installation of duct run fittings and sections.
3. Interpret specification documents and apply them to the plans.
4. Interpret shop drawings and apply them to the plans and specifications.
5. Develop cut lists for duct runs as shown on shop drawings and develop elevations of installations.
6. Describe a submittal, its derivation, routing, and makeup.
7. Develop a field set of as-built drawings.
8. Identify the steps required for transferring design information to component production.
9. Identify, develop, and complete takeoff sheets.
10. List and classify materials most commonly used in HVAC systems.
11. Complete takeoff procedures for HVAC systems.

B. Module 03402-03. Indoor Air Quality

1. Explain the need for good indoor air quality.
2. Recognize the symptoms of poor indoor air quality.
3. Perform an inspection/evaluation of a building's structure and equipment for potential causes of poor indoor air quality.
4. Identify the causes and corrective actions used to remedy the more common indoor air problems.
5. Recognize the HVAC equipment and accessories that are used to sense, control, and/or enhance indoor air quality.
6. Use selected test instruments to measure or monitor the quality of indoor air.
7. Demonstrate and/or describe the general procedures used to clean HVAC air system ductwork and components.

C. Module 03403-03. Energy Conservation Equipment

1. Recognize selected air-to-air heat exchangers and describe how they operate.
2. Recognize selected condenser heat recovery systems and explain how they operate.
3. Recognize a coil energy recovery loop and explain how it operates.
4. Recognize a heat pipe heat exchanger and explain how it operates.
5. Recognize thermosiphon heat exchangers and explain how they operate.
6. Recognize a twin tower enthalpy recovery loop system and explain how it operates.
7. Recognize airside and waterside economizers and explain how each type operates.
8. Recognize selected steam system heat recovery systems and explain how they operate.
9. Recognize an ice bank-type off-peak hours energy reduction system.
10. Demonstrate and/or describe how to operate selected energy conversion equipment.

D. Module 03404-03. Building Management Systems

1. Define a building management system.
2. Explain the operation of a basic direct digital controller.
3. Demonstrate familiarity with the terms commonly used in discussing control loops and building management systems.
4. Identify the major components of a building management system and describe how they fit together.
5. Recognize the type of information available on a typical front-end computer screen for a building management system.
6. Describe the typical steps required to install a building management system.
7. Understand how to install typical sensors, actuators, power wiring, and communication wiring.
8. Recognize what programming a building management system entails.

E. Module 03405-03. Water Treatment

1. Explain the reasons why water treatment programs are needed.
2. Recognize symptoms in heating/cooling systems that indicate a water problem exists.
3. Describe the types of problems and related remedies associated with water problems that can occur in the different types of water and steam systems.
4. Recognize and perform general maintenance on selected mechanical types of HVAC equipment that are used to control and/or enhance water quality.
5. Use commercial water test kits to test water quality in selected water/steam systems.
6. Perform an inspection/evaluation of a cooling tower or evaporative condenser to identify potential causes and/or existing conditions that indicate water problems.
7. Demonstrate and/or describe the general procedures used to clean open recirculating water systems and related cooling towers.
8. Demonstrate and/or describe the general procedures used to inspect, blowdown, and clean steam boilers.

F. Module 03406-03. System Startup and Shutdown

1. Demonstrate and/or describe how to prepare a boiler for dry storage.
2. Demonstrate and/or describe how to prepare a boiler for wet storage.
3. Demonstrate and/or describe how to clean, start up, and shut down a steam boiler.
4. Demonstrate and/or describe how to clean, start up, and shut down a hot-water boiler.
5. Demonstrate and/or describe how to start up and shut down a reciprocating liquid chiller and related water system.
6. Demonstrate and/or describe how to start up and shut down a selected centrifugal or screw liquid chiller and related water system.
7. Demonstrate and/or describe how to start up and shut down an air handler and related forced-air distribution system.
8. Demonstrate and/or describe how to test compressor oil for acid contamination.
9. Demonstrate and/or describe how to add or remove oil from a semi-hermetic or open reciprocating compressor.

10. Demonstrate and/or describe how to inspect and clean shell and tube condensers/evaporators and other water-type heat exchangers.

G. Module 03407-03. Heating and Cooling System Design

1. Identify and describe the steps in the system design process.

2. From blueprints or an actual job site, obtain information needed to complete heating and cooling load estimates.

3. Identify the factors that affect heat gains and losses to a building and describe how these factors influence the design process.

4. With instructor supervision, complete a load estimate to determine the heating and/or cooling load of a building.

5. State the principles that affect the selection of equipment to satisfy the calculated heating and/or cooling load.

6. With instructor supervision, select heating and/or cooling equipment using manufacturers' product data.

7. Recognize the various types of duct systems and explain why and where each type is used.

8. Demonstrate the effect of fittings and transitions on duct system design.

9. Explain the use and installation of diffusers, registers, and grilles used in duct systems.

10. Demonstrate the use of a friction loss chart to size round duct.

11. Demonstrate the use of duct sizing tables to size rectangular duct.

12. Explain or demonstrate the use and installation of insulation and vapor barriers used in duct systems.

13. Apply proper design principles to the selection and installation of refrigerant and condensate piping.

14. Estimate the electrical load for a building and calculate the effect of the comfort system on the electrical load.

H. Module 03408-03. Commercial and Industrial Refrigeration

1. Recognize the different types of refrigerated coolers and display cases. For each type, give its common application.

2. Compare the basic components used in commercial/industrial refrigeration systems with those used in comfort air conditioning systems.

3. Recognize single, multiple, and satellite compressor systems. Describe the applications, installation considerations, and advantages and disadvantages of each type.

4. Recognize packaged condensing units and unit coolers. Describe their applications, operation, and installation considerations.

5. Recognize two-stage compressors. Explain their operation and applications.

6. Recognize the various accessories used in commercial refrigeration systems. Explain why each is used and where it should be installed in the system.

7. Recognize the various refrigeration control devices. Explain the purpose of each type and how it works.

8. Describe the various methods used to defrost evaporators.

9. Recognize ice cube and ice flake making machines. Describe their operation and installation considerations.

10. Describe the characteristics and properties of the refrigerants and oils being used to replace CFC refrigerants and mineral oils in existing systems.

11. Demonstrate or describe the general procedure for retrofitting a CFC refrigeration system to use an HCFC or HFC refrigerant.

12. Recognize basic ammonia refrigeration systems. Compare the components used in ammonia systems with those used in halocarbon-based refrigerant systems.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

#### **Family Impact Statement**

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 written comments until 4:30 p.m., May 9, 2006, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 122—Trade and Industrial Education Curricula**

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

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

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

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

Marlyn J. Langley  
Deputy Superintendent  
Management and Finance  
0603#051

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 1934—Starting Points Preschool Regulations  
(LAC 28:XXI.Chapter 5)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to Bulletin 1934, *Starting Points Preschool Regulations*. In an effort to align all early childhood Pre-Kindergarten programs under the jurisdiction of the Department of Education, the Starting Points Pre-Kindergarten Regulations were revised. These revisions approved at the January 2006 meeting of the state Board of Elementary and Secondary Education (BESE) seek to clarify certain policies.

Revisions include:

- deletion of any reference to non-public schools; and
- clarification of the program monitoring process.

**Title 28**

**EDUCATION**

**Part XXI. Bulletin 1934 Starting Points Preschool Regulations**

**Chapter 5. Program Structure**

**§501. Health Requirements**

A. All children enrolled in the Starting Points Prekindergarten Program must comply with the immunization requirements as established by the Department of Health and Hospitals. All local school systems will administer a vision and hearing-screening test to each student.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:275 (February 2002), LR 30:1654 (August 2004), LR 32:

**§507. Parent Involvement**

A. Each school system is required to develop a plan that encourages parent/family participation in the education of their child. The plan must include a program orientation meeting for parents no later than 20 working days after the beginning of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 30:1654 (August 2004), LR 32:

**§511. Length of School Day and School Year**

The length of the school day and the school year shall follow the provision established in R.S. 17:154.1. The school day that systems operate shall be a full day with a minimum of 360 minutes of instructional time per day exclusive of

lunch, recess, and planning. Instructional days will be based upon the school calendar of each local school system with a minimum of 177 days of instruction.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:275 (February 2002), LR 30:1654 (August 2004), LR 32:

**§521. Reporting**

A. Each local school system will be required to report data to the Louisiana Department of Education documenting the effectiveness of the program and the progress toward attaining program goals. The school system must also submit a final budget detailing exactly how the allocated funds were spent.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:275 (February 2002), LR 30:1655 (August 2004), LR 32:

**§523. Monitoring**

A. The Department of Education will develop a schedule cycle for on-site visits to monitor program quality. Program compliance with guidelines and implementation of developmentally appropriate practices will be assessed during on-site visits.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:1685 (October 2001), LR 28:276 (February 2002), LR 30:1655 (August 2004), LR 32:

**§527. Adherence to Regulations**

A. Local school systems must adhere to all state and federal regulations and guidelines. Failure to do so will result in withdrawal of program funds.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:276 (February 2002), LR 30:1655 (August 2004), LR 32:

**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 written comments until 4:30 p.m., May 9, 2006, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Bulletin 1934—Starting Points Preschool  
Regulations**

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

There should be no increase in cost to state or local governmental units.

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

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

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

There should be no additional cost or economic benefits to any person or non-governmental groups. School systems personnel will now receive a more concise set of regulations that will govern their programs.

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

There should be no effect on competition and employment.

Marlyn J. Langley  
Deputy Superintendent  
Management and Finance  
0603#050

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Compatibility and Health and Safety Requirements  
(LAC 33:XV.102, 322, 421, 442, 703, 706, 723, 728, 736, 737, 741, 742, 743, 755, 757, 763, and 804)(RP041ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection regulations, LAC 33:XV.102, 322, 421, 442, 703, 706, 723, 728, 736, 737, 741, 742, 743, 755, 757, 763, and 804 (Log #RP041ft).

This proposed rule is identical to federal regulations found in 10 CFR Parts 20, 31, 35, and 39, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

Louisiana's radiation regulations are being updated in order to maintain equivalency with NRC regulations for purposes of compatibility and health and safety significance.

These changes are required under the Agreement State Program. Agreement states must periodically review and update their state regulations in order to remain current with federal regulations. In addition to the compatibility issues, a typographical error is being corrected in LAC 33:XV.804. The basis and rationale for this rule are to preserve compatibility of Louisiana's radiation regulations with equivalent NRC regulations.

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

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part 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.

\* \* \*

*Radiation Safety Officer*—one who has the knowledge and responsibility to apply appropriate radiation protection principles and regulations to control exposure to individuals and the environment. A *radiation safety officer* shall be identified on:

1. a specific medical use license issued by the agreement state or Nuclear Regulatory Commission; or

2. a medical use permit issued by a Nuclear Regulatory Commission master material licensee.

\* \* \*

*Sealed Source*—any radioactive material that has been encased in a capsule constructed in such a manner as to prevent leakage or escape of any radioactive material.

\* \* \*

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

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

**Chapter 3. Licensing of Radioactive Material**

**Subchapter C. General Licenses**

**§322. General Licenses: Radioactive Material Other Than Source Material**

A. - D.3.c.ii. ...

d. maintain records showing compliance with the requirements of Subparagraphs D.3.b and c of this Section. The records shall show the results of tests. The records also shall show the dates of performance of, and the names of persons performing, testing, installation, servicing, and removal from installation of the radioactive material, its shielding, or containment. Records of tests for leakage of

radioactive material required by Subparagraph D.3.b of this Section shall be maintained until the sealed source is transferred or disposed. Records of tests of the on-off mechanism and indicator required by Subparagraph D.3.b of this Section shall be maintained for one year after the next required test of the on-off mechanism and indicator is performed or until the sealed source is transferred or disposed. Records required by Subparagraph D.3.c of this Section shall be maintained for a period of three years from the date of the recorded event or until the device is transferred or disposed;

e. - g. ...

h. transfer the device to another general licensee only:

i. where the device remains in use at a particular location. In such case the transferor shall give the transferee a copy of this regulation and any safety documents identified in the label on the device and, within 30 days of the transfer, report to the Office of Environmental Compliance, Emergency and Radiological Services Division, the manufacturer's name and the model number of the device transferred, the name and address of the transferee, and the name and/or position of an individual who may constitute a point of contact between the department and the transferee; or

ii. where the device is held in storage by an intermediate person in the original shipping container at its intended location of use prior to initial use by a general licensee;

D.3.i. - J.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), LR 27:1226 (August 2001), LR 30:1663 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2524 (October 2005), LR 32:

#### **Chapter 4. Standards for Protection against Radiation**

##### **Subchapter B. Radiation Protection Programs**

#### **§421. Radiation Dose Limits for Individual Members of the Public**

A. - A.3. ...

B. If the licensee or registrant permits members of the public to have access to controlled areas, the radiation dose limits for members of the public continue to apply to those individuals.

C. - E. ...

F. Each licensee or registrant shall conduct operations so that, notwithstanding Paragraph A.1 of this Section, a licensee or registrant may permit a visitor to an individual who cannot be released, under LAC 33:XV.725, to receive a radiation dose greater than 0.1 rem (1 mSv) if:

1. the radiation dose received does not exceed 0.5 rem (5 mSv); and

2. the *authorized user*, as defined in LAC 33:XV.102, has determined before the visit that it is appropriate.

<sup>3</sup>Retrofit shall not be required for locations within facilities where only radiation machines existed prior to January 1,

1994, and met the previous requirements of 5 mSv (0.5 rem) in a year.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:970 (October 1996), LR 24:2095 (November 1998), repromulgated LR 24:2243 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2576 (November 2000), amended by the Office of Environmental Assessment, LR 31:48 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

#### **Subchapter E. Respiratory Protection and Controls to Restrict Internal Exposure in Restricted Areas**

#### **§442. Use of Individual Respiratory Protection Equipment**

A. If the licensee or registrant assigns or permits the use of respiratory protection equipment to limit intakes in accordance with LAC 33:XV.441:

1. - 3. ...

a. air sampling sufficient to identify the potential hazard, permit proper equipment selection, and estimate doses;

b. ...

c. tests of respirators for operability (user seal check for face sealing devices and functional check for others) immediately prior to each use;

d. - e. ...

f. written procedures regarding:

i. monitoring, including air sampling and bioassays;

ii. supervision and training of respirator users;

iii. fit testing;

iv. respirator selection;

v. breathing air quality;

vi. inventory and control;

vii. storage, issuance, maintenance, repair, testing, and quality assurance of respiratory protection equipment;

viii. recordkeeping; and

ix. limitations on periods of respirator use and relief from respirator use;

g. determination by a physician prior to the initial fitting of a respirator, prior to the first field use of a non-face sealing respirator, and at least every 12 months thereafter, or periodically at a frequency determined by a physician, that the individual user is medically fit to use the respiratory protection equipment;

4. - 4.a....

b. the routine, nonroutine, and emergency use of respirators; and

c. ...

5. the licensee or registrant shall make available sufficient standby rescue persons to assist all respirator users and to provide effective emergency rescue if needed, and shall provide for the availability of standby rescue persons who:

a. are required to be present in situations whenever one-piece atmosphere-supplying suits, or any combination of supplied air respiratory protection device and personnel

protective equipment are used from which an unaided individual would have difficulty extricating himself or herself;

b. must be equipped with respiratory protection devices or other apparatus appropriate for the potential hazards; and

c. shall observe or otherwise maintain continuous communication with the workers (by visual, voice, signal line, telephone, radio, or other suitable means) and be immediately available to assist them in case of a failure of the air supply or for any other reason that requires relief from distress;

6. the licensee or registrant shall advise each respirator user that the user may leave the area at any time for relief from respirator use in the event of equipment malfunction, physical or psychological distress, procedural or communication failure, significant deterioration of operating conditions, or any other conditions that might require such relief; and

7. the licensee or registrant shall use respiratory protection equipment within the equipment manufacturer's expressed limitations for type and mode of use and shall provide proper visual, communication, and other special capabilities, such as adequate skin protection, when needed.

B. - 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 19:1421 (November 1993), LR 22:972 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2577 (November 2000), LR 29:1469 (August 2003), LR 30:1666 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2529 (October 2005), LR 32:

## **Chapter 7. Use of Radionuclides in the Healing Arts**

### **§703. License Amendments and Provisions for Research Involving Human Subjects**

A. - A.6. ...

B. A licensee may conduct research involving human subjects using radioactive material, provided that the research is conducted, funded, supported, or regulated by a federal agency that has implemented the Federal Policy for the Protection of Human Subjects. The licensee shall, before conducting such research:

1. obtain review and approval of the research from an *Institutional Review Board*, as defined and described in the Federal Policy; and

2. obtain *informed consent*, as defined and described in the Federal Policy, from the human research subject.

C. - 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), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

### **§706. Radiation Safety Officer**

A. A licensee shall appoint a radiation safety officer, who agrees, in writing, to be responsible for implementing the radiation safety program. The licensee, through the radiation safety officer, shall ensure that radiation safety activities are being performed in accordance with approved procedures and regulatory requirements in the daily operation of the licensee's radioactive material program.

B. - B.4. ...

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 by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2588 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

### **§723. Vial and Vial Shield Labels**

A. Each vial that contains a radiopharmaceutical must be labeled to identify the radioactive drug. Each syringe shield and vial shield must also be labeled unless the label on the syringe or vial is visible when shielded.

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 by the Office of the Secretary, Legal Affairs Division, LR 32:

### **§728. Decay-in-Storage**

A. A licensee shall hold radioactive material with a physical half-life of less than 120 days for decay-in-storage before disposal in ordinary trash and is exempt from the requirements of LAC 33:XV.460 of these regulations if the licensee:

1. ...

2. monitors radioactive material at the container surface before disposal as ordinary trash and determines that its radioactivity cannot be distinguished from the background radiation level with an appropriate radiation detection survey instrument set on its most sensitive scale and with no interposed shielding;

A.3. - B. ...

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 by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1238 (August 2001), LR 30:1177 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

### **§736. Safety Instruction**

A. - B.4. ...

5. notification of the radiation safety officer, or his or her designee, and an authorized user, in the case of the patient's or human research subject's death or medical emergency; and

B.6. - C. ...

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 24:2105 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 30:1178 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

### §737. Safety Precautions

A. - A.7. ....

B. A licensee shall notify the radiation safety officer, or his or her designee, and an authorized user immediately if the patient or human research subject dies or has a medical emergency.

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 24:2105 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 30:1178 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2533 (October 2005), LR 32:

### §741. Use of Sources for Brachytherapy

A. - A.5. ....

B. A licensee shall use only brachytherapy sources for therapeutic medical uses:

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 by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1178 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

### §742. Safety Instructions

A. - B.4.b. ....

5. procedures for notification of the radiation safety officer, or his or her designee, and an authorized user if the patient or human research subject dies or has a medical emergency; and

B.6. - C. ....

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 24:2105 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1179 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

### §743. Safety Precautions

A. - B.2. ....

C. A licensee shall notify the radiation safety officer, or his or her designee, and an authorized user immediately if the patient or human research subject dies or has a medical emergency.

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 24:2105 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1179 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

## §755. Dosimetry Equipment and Therapy-Related Computer Systems

A. - A.1 ...

2. The system shall have been calibrated within the previous 4 years; 18 to 30 months after that calibration, the system shall have been intercompared at an intercomparison meeting with another dosimetry system that was calibrated within the past 24 months by the National Institute of Standards and Technology or by a calibration laboratory accredited by the American Association of Physicists in Medicine. The results of the intercomparison meeting shall have indicated that the calibration factor of the licensee's system had not changed by more than 2 percent. The licensee shall not use the intercomparison result to change the calibration factor. When intercomparing dosimetry systems to be used for calibrating sealed sources for therapeutic units, the licensee shall use a comparable unit with beam attenuators or collimators, as applicable, and sources of the same radionuclide as the source used at the licensee's facility.

B. - D.5. ....

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 by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1181 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

### §757. Periodic Spot-Checks

A. - A.2. ....

a. timer accuracy and timer linearity over the range of use;

2.b. - 9. ....

10. A licensee shall maintain a record of each spot-check required by Paragraphs A.1 and 6 of this Section for two years. The record shall include the date of the spot-check; the manufacturer's name, model number, and serial number for both the teletherapy unit and source; the manufacturer's name, model number, and serial number of the instrument used to measure the output of the teletherapy unit; the timer accuracy and linearity; the calculated "on-off" error; a determination of the coincidence of the radiation field and the field indicated by the light beam localizing device; the timer accuracy and linearity for a typical treatment time; the calculated "on-off" error; the estimated accuracy of each distance-measuring or localization device; the difference between the anticipated output and the measured output; notations indicating the operability of each entrance door electrical interlock, each electrical or mechanical stop, each beam condition indicator light, the viewing system, and doors; and the signature of the individual who performed the periodic spot-check.

B. - D.5.e. ....

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 by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:1183 (June 2004), amended by the Office of Environmental



Assessment, LR 31:54 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

#### **§763. Training**

A. - N. ...

O. Recentness of Training. The training and experience specified in Subsections A-L of this Section shall have been obtained within the seven years preceding the date of application, or the individual shall have had continuing applicable experience since the required training and experience was completed.

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), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

### **Chapter 8. Radiation Safety Requirements for Analytical X-Ray Equipment**

#### **§804. Area Requirements**

A. ...

B. Surveys

1. Radiation surveys, as required by LAC 33:XV.430, of all analytical X-ray systems sufficient to show compliance with Subsection A of this Section shall be performed:

B.1.a. - C. ...

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 Environmental Assessment, Environmental Planning Division, LR 26:2591 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

A public hearing will be held on April 25, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez 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 RP041ft. Such comments must be received no later than April 25, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to [judith.schuerman@la.gov](mailto:judith.schuerman@la.gov). The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP041ft. This regulation is available on the Internet at [www.deq.louisiana.gov](http://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; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM  
Executive Counsel

0603#053

### **NOTICE OF INTENT**

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

DMR Completion Requirement  
(LAC 33:IX.2701)(WQ065)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.2701 (Log #WQ065).

This rule change will require discharge monitoring reports (DMRs) to be filled out completely before submittal. An incomplete DMR submittal will be considered a violation of the regulations. Incomplete DMR submittals are delaying the evaluation of facility compliance with facility permits for effluent discharges and are adding to the workload of department staff reviewing these submittals. The basis and rationale for this rule are to protect the waters of the state.

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

### **Title 33**

#### **ENVIRONMENTAL QUALITY**

#### **Part IX. Water Quality Regulations**

#### **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.3. ...

4. Monitoring Reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.

a. Results of wastewater or effluent monitoring must be reported on a discharge monitoring report (DMR) EPA Form 3320-1, or an approved substitute. The results of monitoring of sludge use or disposal practices shall be reported on forms specified or approved by the administrative authority.

b. - c. ...

d. Discharge monitoring reports shall be completed in accordance with the instructions on EPA Form 3320-1.

L.5. - 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 the Secretary, Legal Affairs Division, LR 31:2431, 2512 (October 2005), LR 32:

A public hearing will be held on April 25, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez 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 WQ065. Such comments must be received no later than May 2, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to [judith.schuerman@la.gov](mailto:judith.schuerman@la.gov). 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 WQ065. This regulation is available on the Internet at [www.deq.louisiana.gov](http://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; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM  
Executive Counsel

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: DMR Completion Requirement

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

The workload for departmental staff will be slightly reduced resulting from the decrease in duplication of work when properly completed Discharge Monitoring Reports (DMRs) are submitted.

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

Revenues for the state may be slightly increased due to income from penalty assessments.

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

No effect will be experienced by facilities submitting completed DMRs. Submission of incomplete DMRs may result in penalties of up to \$32,500/day to the facilities that submit them.

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

No effect on competition or employment will be experienced.

Herman Robinson, CPM  
Executive Counsel  
0603#056

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

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

#### Extension of Compliance Deadlines for CAFO Permits (LAC 33:IX.2501, 2505, 2703, and 4903)(WQ066ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.2501, 2505, 2703, and 4903 (Log #WQ066ft).

This proposed rule is identical to federal regulations found in 40 CFR 122.21, 23, and 42 and 412.31 and 43, as amended at 71 FR 6978 - 6984 (2/10/06), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule implements the February 10, 2006, EPA rule (71 FR 6978-6984) that postpones dates established in the 2003 Concentrated Animal Feeding Operations (CAFOs) rule issued on February 12, 2003, by which facilities newly defined as CAFOs were required to seek permit coverage and by which all CAFOs were required to have nutrient management plans (NMPs) developed and implemented. EPA extended the date by which operations defined as CAFOs as of April 14, 2003, who were not defined as CAFOs prior to that date, must seek NPDES permit coverage, from February 13, 2006 to July 31, 2007. EPA also amended the date by which operations that become defined as CAFOs after April 14, 2003, due to operational changes that would not have made them CAFOs prior to April 14, 2003, and that are not new sources, must seek NPDES permit coverage, from April 13, 2006 to July 31, 2007. Finally, EPA extended the deadline by which CAFOs are

required to develop and implement NMPs, from December 31, 2006 to July 31, 2007.

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

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

The text of this Notice of Intent can be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

A public hearing will be held on April 25, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez 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 WQ066ft. Such comments must be received no later than April 25, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to [judith.schuerman@la.gov](mailto:judith.schuerman@la.gov). The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of WQ066ft. This regulation is available on the Internet at [www.deq.louisiana.gov](http://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; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM  
Executive Counsel

0603#055

## NOTICE OF INTENT

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

Financial Assurance Correction  
(LAC 33:XV.399.Appendix A)(RP042ft)

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.399.Appendix A (Log #RP042ft).

This proposed rule is identical to federal regulations found in 10 CFR 30.35, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

Appendix A in LAC 33:XV.399, showing financial assurance arrangements, is being updated to reflect the financial assurance amendments made in state rule activity RP039ft, finalized in the *Louisiana Register* on July 20, 2005, to mirror the federal regulations for financial assurance requirements. In LAC 33:XV.325.D, the amounts of financial assurance required for decommissioning by licensees were increased to mirror the federal regulations. The updates to the amounts in the appendix were overlooked in the rulemaking at that time. This rule corrects the mistake in order to make the financial assurance requirements consistent throughout the radiation regulations and to mirror the federal regulations. The basis and rationale for this rule are to keep financial assurance requirements consistent throughout the radiation regulations and to be equivalent with the federal regulations.

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

The text of this Notice of Intent can be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

A public hearing will be held on April 25, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez 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 RP042ft. Such

comments must be received no later than April 25, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to [judith.schuerman@la.gov](mailto:judith.schuerman@la.gov). The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP042ft. This regulation is available on the Internet at [www.deq.louisiana.gov](http://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; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA

Herman Robinson, CPM  
Executive Counsel

0603#054

## NOTICE OF INTENT

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

#### RCRA XV Package

(LAC 33:V.105, 109, 901, 905, 907, 909, 911, 921, 923, 1101, 1107, 1108, 1109, 1113, 1119, 1123, 1301, 1307, 1309, 1516, 1529, 2205, 2208, 2299. Tables 2 and 7, 3105, 4145, 4351, 4353, 4355, 4356, and 4901)(HW090ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.105, 109, 901, 905, 907, 909, 911, 921, 923, 1101, 1107, 1108, 1109, 1113, 1119, 1123, 1301, 1307, 1309, 1516, 1529, 2205, 2208, 2299. Tables 2 and 7, 3105, 4145, 4351, 4353, 4355, 4356, and 4901 (Log #HW090ft).

This proposed rule is identical to federal regulations found in 40 CFR 261.4, 261.32, 261. Appendices VII and VIII, 268.20, 268.40, Treatment Std. Tbl. (2/24/05); 40 CFR 260.10, 261.7, 262.20-22, 32-34, 54, 60, and Appendix, 263.20-21, 264.70-72 and 76, 265.70-72 and 76 (3/4/05); 40 CFR 260.10, 268.40, and 268.50(e) (7/1/05), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed rule lists hazardous nonwastewaters generated from the production of certain dyes, pigments, and food, drug, and cosmetic colorants (K181) to the list of hazardous wastes. It also revises the Uniform Hazardous Waste Manifest regulations and the manifest and continuation sheet forms used to track hazardous waste from a generator's site to the site of disposition. As of September

5, 2006, the department will no longer have authorization to require hazardous waste handlers to acquire and use the Louisiana Uniform Hazardous Waste Manifest. As of that date, Uniform Hazardous Waste Manifest forms must be obtained only from EPA-registered and approved sources as identified by the Manifest Registry. These forms will be available from a greater number of sources. New procedures are adopted for tracking certain types of waste shipments with the manifest. The manifest regulations in LAC 33:V. Chapter 9 are being repealed from that location and moved to Chapters 11 and 15. This rule will make the regulations equivalent to the federal regulations in order for the state to request authorization for the RCRA Cluster XV program and maintain delegation of the hazardous waste program. This rule also corrects citations that direct the reader to sections that no longer exist, deletes LAC 33:V.1119 that creates a redundancy, and corrects a citation in the definition of "aboveground tank" that is a typographical error. The sections referenced by the incorrect citations were repealed, as required by federal regulations, in previous rulemaking. The citation corrections were overlooked in the rulemaking at that time. This rule corrects the mistakes and makes the regulations equivalent to federal language as required by the state RCRA authorization program. The basis and rationale for this rule are to mirror the federal regulations and to maintain delegation of the hazardous waste program.

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

## Title 33

### ENVIRONMENTAL QUALITY

#### Part V. Hazardous Waste and Hazardous Materials

##### Subpart 1. Department of Environmental

##### Quality—Hazardous Waste

#### Chapter 1. General Provisions and Definitions

##### §105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to the denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including *solid waste* and *hazardous waste*, appear in LAC 33:V.109. Wastes that are excluded from regulation are found in this Section.

A. - D.2.g.iii. ...

iv. sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearing;

g.v. - o. ...

p. leachate or gas condensate collected from landfills where certain solid wastes have been disposed, provided that:

i. the solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes

K169, K170, K171, K172, K174, K175, K176, K177, K178, and K181 if these wastes had been generated after the effective date of the listing;

ii. - iv. ...

v. as of February 13, 2001, the leachate or gas condensate derived from K169-K172 is no longer exempt if it is stored or managed in a surface impoundment prior to discharge. After November 21, 2003, leachate or gas condensate derived from K176, K177, and K178 will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. After February 26, 2007, leachate or gas condensate derived from K181 will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this Clause after the emergency ends.

D.3. - O.2.c.vi. ...

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 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217, LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362, 368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813, 831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564, 567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687, 1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003), LR 30:1680 (August 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:

### **§109. Definitions**

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

*Aboveground Tank*—a device meeting the definition of *tank* in this Section and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

\* \* \*

### *Designated Facility*—

1. A *designated facility* is a hazardous waste treatment, storage, or disposal facility that:

a. has received a permit (or interim status) in accordance with the requirements of LAC 33:V.Chapters 1, 3, 5, 7, 27, 31, and 43;

b. has received a permit (or interim status) from a state authorized in accordance with 40 CFR 271; or

c. is regulated under the applicable Sections of 40 CFR 266, LAC 33:V.Chapter 41, or equivalent regulation of other states; and

d. has been designated on the manifest by the generator in accordance with LAC 33:V.105.H.

2. *Designated facility* also means a generator site designated on the manifest to receive its waste as a return shipment from a facility that has rejected the waste in accordance with LAC 33:V.1516.C.

3. If a waste is destined for a facility in an authorized state that has not yet obtained authorization to regulate that particular waste as hazardous, then the *designated facility* must be a facility allowed by the receiving state to accept such waste.

\* \* \*

### *Empty Container*—

1.a. - 2.a.i.(b). ...

ii.(a). no more than 3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 119 gallons in size; or

(b). no more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 119 gallons in size;

2.b. - 2.c.iii. ...

\* \* \*

*Manifest*—the shipping document EPA Form 8700-22 (including, if necessary, EPA Form 8700-22A), originated and signed by the generator or offeror in accordance with the instructions in the Appendix to 40 CFR Part 262 and the applicable requirements of 40 CFR Parts 262-265.

*Manifest Document Number*—repealed.

*Manifest Tracking Number*—the alphanumeric identification number that is pre-printed in Item 4 of the manifest.

\* \* \*

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 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April

1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003); amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:

## **Chapter 9. Manifest System for TSD Facilities—Repealed**

*(Editor's Note: Chapter 9 is hereby repealed as of [insert date of promulgation]. §901 moved to §1516.A; §905 moved to §1516.B; §907 moved to §1516.C; §909 moved to §1516.D; §911 requirements exist in Chapter 11; §921 requirements exist in Chapter 11; and §923 moved to §1107.E.)*

## **Chapter 11. Generators**

### **Subchapter A. General**

#### **§1101. Applicability**

A. A generator who treats, stores, or disposes of hazardous waste on-site is not required to comply with the requirements of this Chapter except for the following with respect to that waste: LAC 33:V.1101.C, 1103, 1105, 1109.E, 1111.A.3 and 4, 1111.D, and 1121.

B. - I. ...

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 16:398 (May 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 22:20 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:660 (April 1998), LR 24:1106 (June 1998), LR 24:1693 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:709 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

#### **§1107. The Manifest System**

A. General Requirements. The revised manifest form and procedures in 40 CFR Part 262 and the Appendix to Part 262 shall be effective as of September 5, 2006. As of September 5, 2006, Uniform Hazardous Waste Manifest forms must be obtained only from EPA-registered and approved sources as identified by the Manifest Registry. Contact the Office of Environmental Services, Environmental Assistance Division, or access the U.S. Environmental Protection Agency's website to obtain information on EPA-registered and approved sources.

1. A generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage, or disposal, or a treatment, storage, and disposal facility that offers for transport a rejected hazardous waste load, shall prepare a Manifest (OMB Control number 2050-0039) on EPA Form 8700-22 and, if necessary, EPA Form 8700-22A, according to the instructions included in the Appendix to 40 CFR Part 262.

2. A generator shall designate on the manifest one facility that is permitted to handle the waste described on the manifest. A generator may also designate on the manifest one alternate facility that is permitted to handle the waste in the event an emergency prevents delivery of the waste to the primary designated facility.

3. If the transporter is unable to deliver the hazardous waste to the designated facility or the alternate facility, the

generator shall either designate another facility or instruct the transporter to return the waste.

A.4. - D.6. ...

#### **E. Special Manifest Provisions**

1. Scope. These provisions will apply to material in containers meeting the provisions of lab packs except that the outer container, excluding overpacking, shall not exceed 5 gallons (20 liters) in total liquid capacity prior to addition of the absorbent. The container and overpacking shall comply with applicable requirements of the Louisiana Department of Public Safety and Corrections or its successor agency. Except as otherwise provided herein, the requirements of LAC 33:V.2519 shall be met.

2. Reporting and Recordkeeping. Both the generator and disposer shall maintain copies of the manifests and other records as required elsewhere in LAC 33:V.Subpart 1. The generator and disposer shall include all such wastes in the annual report as provided in LAC 33:V.1111.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 10:496 (July 1984), LR 12:319 (May 1986), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:266, 267 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000), LR 27:42 (January 2001), LR 27:709 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

#### **§1108. Manifest Tracking Numbers, Manifest Printing, and Obtaining Manifests**

A. 40 CFR 262.21 and the associated appendix, July 1, 2005, are hereby incorporated by reference. 40 CFR 262.21 establishes standards and procedures for registrants who apply early to, and obtain approval from, the Director, Office of Solid Waste, US EPA, to print and distribute hazardous waste manifest forms.

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 18:1256 (November 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

#### **§1109. Pre-Transport Requirements**

A. - B. ...

C. Marking. Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must mark each container of 119 gallons or less used in such transportation with the following words and information displayed in accordance with the Department of Public Safety regulations (see Department of Public Safety regulation LAC 33:V.Subpart 2.Chapter 105).

Hazardous Waste: Federal and state law prohibits improper disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.

Generator's Name and Address \_\_\_\_\_

Generator's EPA ID Number \_\_\_\_\_

Manifest Tracking Number \_\_\_\_\_

D. Placarding. Before transporting hazardous waste or offering hazardous waste for transportation off-site, a

generator must placard or offer the initial transporter the appropriate placards according to Department of Public Safety regulations for hazardous materials under LAC 33:V.Subpart 2.Chapter 105. If placards are not required, a generator must mark each motor vehicle according to 49 CFR 171.3(b)(1).

E. - E.1.d. ...

e. the generator complies with the requirements for owners or operators in LAC 33:V.2245, 4319, and Chapter 43.Subchapters B and C.

2. ...

3. Reserved.

4. - 12. ...

13. A generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste, and who later receives that shipment back as a rejected load or residue, may accumulate the returned waste on-site depending on the amount of hazardous waste on-site in that calendar month. Upon receipt of the returned shipment, the generator shall:

a. sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

b. sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

F. Waste Minimization Certification. A generator who initiates a shipment of hazardous waste must certify to one of the following statements in Item 15 of the Uniform Hazardous Waste Manifest.

1. "I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me that minimizes the present and future threat to human health and the environment."

2. "I am a small quantity generator. I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford."

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 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:277 (February 2000), LR 26:2470 (November 2000), LR 27:293 (March 2001), LR 27:709, 716 (May 2001), LR 27:1014 (July 2001), LR 30:1673 (August 2004), amended by the Office of Environmental Assessment, LR 31:1571 (July 2005); amended by the Office of the Secretary, Legal Affairs Division, LR 32:

### §1113. Exports of Hazardous Waste

A. - E.2. ...

3. In the International Shipments block, the primary exporter shall check the export box and enter the point of exit (city and state) from the United States.

4. ...

5. The primary exporter shall obtain the manifest form from any source that is registered with the US EPA as a supplier of manifests.

E.6. - I.2. ...

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 16:220 (March 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 22:20 (January 1996), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:661 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000), LR 27:710 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32

### §1119. Personnel Training

Repealed.

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, LR 10:200 (March 1984), repealed by the Office of the Secretary, Legal Affairs Division, LR 32:

### §1123. Imports of Foreign Hazardous Waste

A. - B.4. ...

C. A person who imports hazardous waste shall obtain a manifest form from any source that is registered with the US EPA as a supplier of manifests.

1. In the International Shipments block, the importer shall check the import box and enter the point of entry (city and state) into the United States.

2. The importer shall provide the transporter with an additional copy of the manifest to be submitted by the receiving facility to the US EPA.

D. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:20 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

### Chapter 13. Transporters

#### §1301. Applicability

A. The revised manifest form and procedures in 40 CFR Part 262 and the Appendix to Part 262 shall be effective as of September 5, 2006. This Chapter establishes standards that apply to persons transporting hazardous waste within the state of Louisiana if the transportation requires a manifest under LAC 33:V.1516.

B. - H. ...

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 by the Office of Waste Services, Hazardous Waste Division, LR 24:666 (April 1998), LR 24:1694 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

### **§1307. The Manifest System**

A. A transporter may not accept hazardous waste from a generator or another transporter unless it is accompanied by a manifest, signed by the generator in accordance with the provisions of LAC 33:V.1107. The transportation of any hazardous wastes without a manifest shall be deemed a violation of these regulations and the Act. In the case of exports other than those subject to LAC 33:V.1125, a transporter may not accept such waste from a primary exporter or other person:

1. if he knows the shipment does not conform to the EPA Acknowledgment of Consent; and

2. unless, in addition to a manifest signed by the generator, such waste is also accompanied by an EPA Acknowledgment of Consent that is attached to the manifest. For exports of hazardous waste subject to the requirements of LAC 33:V.1125, a transporter may not accept hazardous waste without a tracking document that includes all information required by LAC 33:V.1127.D.

B. - G. ...

1. sign and date the manifest in the International Shipments block to indicate the date that the shipment left the United States;

2. retain one copy in accordance with LAC 33:V.1311.D;

G.3. - H.4. ...

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 16:220 (March 1990), LR 18:1256 (November 1992), LR 20:1109 (October 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:666 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:710 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

### **§1309. Compliance with the Manifest**

A. - A.4. ...

[NOTE: No person may deliver a hazardous waste to a place other than the permitted facility shown on the manifest.]

B. If the hazardous waste cannot be delivered in accordance with Subsection A of this Section, the transporter shall contact the generator for further directions and shall revise the manifest according to the generator's instructions. If the hazardous waste is rejected by the designated facility while the transporter is on the facility's premises, then the transporter must obtain the following:

1. for a partial load rejection or for regulated quantities of container residues, a copy of the original manifest that includes the date and the facility's signature, the manifest tracking number of the new manifest that will accompany the shipment, and a description of the partial rejection or container residue in the Discrepancy block of the original manifest. The transporter shall retain a copy of this manifest and give remaining copies of the original to the rejecting facility. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter shall obtain a new manifest to accompany the shipment, and the new manifest must include all of the required information;

2. for a full load rejection that will be taken back by the transporter, a copy of the original manifest which

includes the date and the rejecting facility's signature and that attests to the rejection, the description of the rejection in the Discrepancy block, and the name, address, phone number, and ID number for the alternate facility to which the shipment must be delivered. The transporter shall retain a copy of the manifest and give a copy to the rejecting facility. If the original manifest is not used, the transporter must obtain a new manifest for shipment.

C. - E. ...

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 by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2472 (November 2000), LR 27:44 (January 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

## **Chapter 15. Treatment, Storage, and Disposal Facilities**

### **§1516. Manifest System for Treatment, Storage, and Disposal (TSD) Facilities**

A. Applicability

1. The regulations in this Section apply to owners and operators of both on-site and off-site TSD facilities, except as LAC 33:V.1501 provides. Subsections B, C, and D of this Section do not apply to owners and operators that do not receive any hazardous waste from off-site sources, or to off-site facilities with respect to military munitions exempt from requirements. Paragraph C.3 of this Section only applies to permittees who treat, store, or dispose of hazardous wastes on-site where such wastes were generated.

2. The revised manifest form and procedures in 40 CFR Part 262 and the Appendix to Part 262 shall be effective as of September 5, 2006. As of September 5, 2006, Uniform Hazardous Waste Manifest forms must be obtained only from EPA-registered and approved sources as identified by the Manifest Registry. Contact the Office of Environmental Services, Environmental Assistance Division, or access the U.S. Environmental Protection Agency's website to obtain information on EPA-registered and approved sources.

B. Use of the Manifest System

1. If a facility receives a hazardous waste accompanied by a manifest, the owner or operator, or his or her agent, shall:

a. sign and date each copy of the manifest to certify that the hazardous waste covered by the manifest was received, the waste was received except as noted in the Discrepancy block, or the waste was rejected;

b. note any significant discrepancies in the manifest (as defined in Paragraph C.1 of this Section) on each copy of the manifest. The administrative authority does not intend that the owner or operator of a facility whose procedures under LAC 33:V.1519.C include waste analysis must perform that analysis before signing the manifest and giving it to the transporter. Paragraph C.3 of this Section, however, requires reporting an unreconciled discrepancy discovered during later analysis;

c. immediately give the transporter at least one copy of the signed manifest;

d. within 30 working days after the delivery, send a signed copy of the manifest to the generator; and



e. retain at the facility a copy of each manifest for at least three years from the date of delivery.

2. If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste that is accompanied by a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator's certification, and signatures), the owner or operator, or his agent, shall:

a. sign and date each copy of the manifest, or the shipping paper if the manifest has not been received, to certify that the hazardous waste covered by the manifest or shipping paper was received;

b. note any significant discrepancies (as defined in Paragraph C.1 of this Section) in the manifest, or the shipping paper if the manifest has not been received, on each copy of the manifest or shipping paper. The administrative authority does not intend that the owner or operator of a facility whose procedures under LAC 33:V.1519.C include waste analysis must perform that analysis before signing the shipping paper and giving it to the transporter. Paragraph C.3 of this Section, however, requires reporting an unreconciled discrepancy discovered during later analysis;

c. immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest, or the shipping paper if the manifest has not been received;

d. within 30 days after the delivery, send a copy of the signed and dated manifest to the generator; however, if the manifest has not been received within 30 days after delivery, the owner or operator, or his agent, must send a copy of the shipping paper, signed and dated, to the generator. LAC 33:V.1107.D.3 requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by water (bulk shipment); and

e. retain at the facility a copy of the manifest, and the shipping paper if signed in lieu of the manifest at the time of delivery, for at least three years from the date of delivery.

3. Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of LAC 33:V.1107.

4. Within three working days of the receipt of a shipment subject to LAC 33:V.Chapter 11.Subchapter B, the owner or operator of the facility must provide a copy of the tracking document bearing all required signatures to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 1200 Pennsylvania Ave, NW, Washington, DC 20460, and to competent authorities of all other concerned countries. A copy of the tracking document must be maintained at the facility for at least three years from the date of signature.

5. If a facility receives hazardous waste from a foreign source, the facility shall mail a copy of the manifest to the following address within 30 days of delivery: International Compliance Assurance Division, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW (2221A), Washington, D.C. 20460-0001. In addition, the facility must, within 30 days:

a. send a copy of the signed and dated manifest or shipping paper to the generator; and

b. determine whether the consignment state or the generator state regulates any additional wastes or requires submission of any copies of the manifest to that state.

#### C. Manifest Discrepancies

1. Manifest discrepancies are:

a. significant differences between the quantity or type of waste designated on the manifest and the quantity or type of waste a facility actually receives;

b. rejected wastes, either full or partial shipment, the TSD facility cannot accept; or

c. container residues exceeding the quantity for *empty containers*, as defined in LAC 33:V.109.

2. Significant discrepancies in quantity are, for bulk waste, greater than 10 percent in weight and, for batch waste, variation in piece count. Discrepancies in type are those discovered through inspection or waste analysis, or toxic constituents not reported on the manifest.

3. Upon discovering a significant discrepancy, the owner or operator shall attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator shall immediately submit to the Office of Environmental Services, Environmental Assistance Division, a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

4. Rejected Wastes or Residues

a. Upon rejecting waste or identifying container residue exceeding "empty" limits, the facility shall consult the generator prior to forwarding waste to a facility that can manage it. If it is impossible to locate an alternate facility, the facility may return the rejected waste to the generator. Waste must be sent to an alternate facility or returned to the generator within 60 days of rejection.

b. While the facility is making arrangements for forwarding rejected wastes or residues, it shall ensure that either the delivering transporter retains custody of the waste, or the facility provides custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under Paragraph C.5 or 6 of this Section.

5. Alternate Facility

a. Except as provided in Subparagraph C.5.b of this Section, for rejected wastes or residues to be sent to an alternate facility, the facility is required to prepare a new manifest in accordance with LAC 33:V.1107 and the following instructions.

i. Write the generator's EPA ID number in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5, or if the generator's site address is different, write the site address in Item 5.

ii. Write the name and EPA ID number of the alternate facility in Item 8 of the new manifest.

iii. Copy the manifest tracking number in Item 4 of the old manifest to the Special Handling and Additional Information block of the new manifest, and indicate that the shipment is rejected waste or residue from the previous shipment.

iv. Copy the manifest tracking number in Item 4 of the new manifest to the manifest reference number line in the Discrepancy block of the old manifest.

v. Write the DOT description for the rejected waste or residue in Item 9 of the new manifest and enter the container type, quantity, and waste volume.

vi. Sign the generator's/offeror's certification to certify that the waste has been properly packaged, marked, and labeled, and is in condition for transportation.

b. For full load rejections made while the transporter remains at the facility, the facility may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information in the Alternate Facility block. The facility must retain a copy of this manifest for its records and give the remaining copies to the transporter. If the original manifest is not used, then the facility must use a new manifest and comply with Clauses C.5.a.i-vi of this Section.

6. Return to Generator

a. Except as provided in Subparagraph C.6.b of this Section, for rejected wastes or residues that must be sent back to the generator, the facility is required to prepare a new manifest in accordance with LAC 33:V.1107 and the following instructions.

i. Write the facility's EPA ID number in Item 1 of new manifest. Write the generator's name and mailing address in Item 5, unless the generator's site address is different, then write the site address in Item 5.

ii. Write the name and EPA ID number of the initial generator in Item 8 of the new manifest.

iii. Copy the manifest tracking number in Item 4 of the old manifest to the Special Handling and Additional Information block of the new manifest, and indicate that the shipment is rejected waste or residue from the previous shipment.

iv. Copy the manifest tracking number in Item 4 of the new manifest to the manifest reference number line in the Discrepancy block of the old manifest.

v. Write the DOT description for the rejected waste or residue in Item 9 of the new manifest and enter the container type, quantity, and waste volume.

vi. Sign the generator's/offeror's certification to certify that the waste has been properly packaged, marked, and labeled, and is in condition for transportation.

b. For full load rejections made while the transporter remains at the facility, the facility may return the rejected shipment to the generator with the original manifest by completing Items 18a and 18b of the original manifest and supplying the generator's information in the Alternate Facility block. The facility must retain a copy of this manifest for its records and give the remaining copies of the manifest to the transporter. If the original manifest is not used, then the facility must use a new manifest and comply with Clauses C.6.a.i-vi of this Section.

7. If a facility rejects waste, or identifies residue that exceeds the limits for *empty containers*, as defined in LAC 33:V.109, after it has signed, dated, and returned a copy of the manifest to the delivering transporter or generator, the facility shall amend its copy of the manifest to indicate the rejected waste or residue in the Discrepancy block of the amended manifest. The facility shall also copy the manifest tracking number in Item 4 of the new manifest to the Discrepancy block of the amended manifest, and shall re-sign and date the manifest to certify that the information is amended. The facility shall retain the amended manifest for

at least three years, and shall send a copy of the amended manifest to the transporter and generator that received copies prior to amendment within 30 days.

D. Unmanifested Waste Report. If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in LAC 33:V.1307.E.2, and if the waste is not excluded from the manifest requirements by LAC 33:V.108, then the owner or operator must prepare and submit a single copy of a report to the administrative authority within 15 days after receiving the waste. The unmanifested waste report must be submitted to the Office of Environmental Services, Environmental Assistance Division. The report must be designated "Unmanifested Waste Report" and include the following information:

1. the EPA identification number, name, and address of the facility;
2. the date the facility received the waste;
3. the EPA identification number, name, and address of the generator and the transporter, if available;
4. a description and the quantity of each unmanifested hazardous waste the facility received;
5. the method of treatment, storage, or disposal for each hazardous waste;
6. the certification signed by the owner or operator of the facility, or his authorized representative; and
7. a brief explanation of why the waste was unmanifested, if known.

[Comment: Small quantities of hazardous waste are excluded from regulation under LAC 33:V.Chapters 15-21, 23-29, and 31-37 and do not require a manifest. Where a facility receives unmanifested hazardous wastes, the department suggests that the owner or operator obtain from each generator a certification that the waste qualifies for exclusion. Otherwise, the department suggests that the owner or operator file an unmanifested waste report for the hazardous waste movement.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:

**§1529. Operating Record and Reporting Requirements**

A. - C.3. ....

D. Annual Report. The owner or operator shall prepare and submit a single copy of an annual report to the Office of Environmental Services, Environmental Assistance Division, by March 1 of each year. The report form shall be used for this report. The annual report must cover facility activities during the previous calendar year. Information submitted on a more frequent basis may be included by reference or in synopsis form where it is not pertinent to reporting under LAC 33:V.1516 or monitoring reporting under LAC 33:V.3317. It shall include the following information:

D.1. - E.3. ....

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 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:832

(September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1695 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 26:278 (February 2000), LR 26:2473 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

**Chapter 22. Prohibitions on Land Disposal**  
**Subchapter A. Land Disposal Restrictions**

**§2205. Storage of Prohibited Wastes**

A. - D. ...

E. The prohibition in Subsection A of this Section does not apply to hazardous wastes that:

1. meet the treatment standards specified under LAC 33:V.2223 or 2227; or

E.2. - H. ...

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 15:378 (May 1989), amended LR 16:220 (March 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1724 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 26:280 (February 2000), LR 27:711 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

**§2208. Waste-Specific Prohibitions—Dyes and/or Pigments Production Wastes**

A. Effective August 23, 2005, the waste specified in 40 CFR Part 261 as EPA Hazardous Waste Number K181, and soil and debris contaminated with this waste, radioactive wastes mixed with this waste, and soil and debris contaminated with radioactive wastes mixed with this waste are prohibited from land disposal.

B. The requirements of Subsection A of this Section do not apply if:

1. the wastes meet the applicable treatment standards specified in LAC 33:V.2223;

2. persons have been granted an exemption from a prohibition pursuant to a petition under LAC 33:V.2241, with respect to those wastes and units covered by the petition;

3. the wastes meet the applicable treatment standards established pursuant to a petition granted under LAC 33:V.2231;

4. hazardous debris has met the treatment standards in LAC 33:V.2223, or the alternative treatment standards in LAC 33:V.2230; or

5. persons have been granted an extension to the effective date of a prohibition in accordance with LAC 33:V.2239, with respect to those wastes covered by the extension.

C. To determine whether a hazardous waste identified in this Section exceeds the applicable treatment standards specified in LAC 33:V.2223, the initial generator must test a sample of the waste extract or the entire waste, depending on whether or not the treatment standards are expressed as concentrations in the waste extract of the waste, or the generator may use knowledge of the waste. If the waste contains regulated constituents in excess of the applicable LAC 33:V.2223 levels, the waste is prohibited from land disposal, and all requirements of this Chapter are applicable, except as otherwise specified.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR:32:

**Subchapter B. Hazardous Waste Injection Restrictions**

**§2299. Appendix—Tables 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12**

Table 2. Treatment Standards for Hazardous Wastes					
Waste Code	Waste Description and Treatment/Regulatory Subcategory <sup>1</sup>	Regulated Hazardous Constituent		Wastewaters	Non-Wastewaters
		Common Name	CAS <sup>2</sup> Number	Concentration in mg/L <sup>3</sup> ; or Technology Code <sup>4</sup>	Concentration in mg/kg <sup>5</sup> unless noted as "mg/L TCLP" or Technology Code <sup>4</sup>
*** [See Prior Text in D001 <sup>9</sup> – D043 <sup>9</sup> ]					
F001	*** [See Prior Text]	*** [See Prior Text in Acetone - Xylenes-mixed isomers (sum of o-, m, and p-xylene concentrations)]			
F002					
F003					
F004					
F005					
	F003 and/or F005 solvent wastes that contain any combination of one or more of the following three solvents as the only listed F001-5 solvents: carbon disulfide, cyclohexanone, and/or methanol (see LAC 33:V.2223.F)	Carbon disulfide	75-15-0	3.8	4.8 mg/L TCLP
		Cyclohexanone	108-94-1	0.36	0.75 mg/L TCLP
		Methanol	67-56-1	5.6	0.75 mg/L TCLP
	F005 solvent waste containing 2-Nitropropane as the only listed F001-5 solvent.	2-Nitropropane	79-46-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
	F005 solvent waste containing 2-Ethoxyethanol as the only listed F001-5 solvent.	2-Ethoxyethanol	110-80-5	BIODG; or CMBST	CMBST

Table 2. Treatment Standards for Hazardous Wastes					
Waste Code	Waste Description and Treatment/Regulatory Subcategory <sup>1</sup>	Regulated Hazardous Constituent		Wastewaters	Non-Wastewaters
		Common Name	CAS <sup>2</sup> Number	Concentration in mg/L <sup>3</sup> ; or Technology Code <sup>4</sup>	Concentration in mg/kg <sup>5</sup> unless noted as "mg/L TCLP" or Technology Code <sup>4</sup>
*** [See Prior Text in F006-F038]					
F039	Leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as hazardous under LAC 33:V.Subchapter A. (Leachate resulting from the disposal of one or more of the following EPA Hazardous Wastes and no other Hazardous Wastes retains its EPA Hazardous Waste Number(s): F020, F021, F022, F026, F027, and/or F028.)	*** [See Prior Text in Acenaphthylene – Aniline]			
		o-Anisidine (2-methoxyaniline)	90-04-0	0.010	0.66
*** [See Prior Text in Anthracene – Chrysene]					
		p-Cresidine	120-71-8	0.010	0.66
*** [See Prior Text in o-Cresol - Diethyl phthalate]					
		2,4-Dimethylaniline	95-68-1	0.010	0.66
*** [See Prior Text in 2-4-Dimethyl phenol – Phenol]					
		1,3-Phenylenediamine	108-45-2	0.010	0.66
*** [See Prior Text in Phorate – Vanadium]					
*** [See Prior Text in K001 – K178]					
K181	Nonwastewaters from the production of dyes and/or pigments (including nonwastewaters commingled at the point of generation with nonwastewaters from other processes) that, at the point of generation, contain mass loadings of any of the constituents identified in LAC 33:V.4901.C.2 that are equal to or greater than the corresponding LAC 33:V.4901.C.2 levels, as determined on a calendar year basis.	Aniline	62-53-3	0.81	14
		o-Anisidine (2-methoxyaniline)	90-04-0	0.010	0.66
		4-Chloroaniline	106-47-8	0.46	16
		p-Cresidine	120-71-8	0.010	0.66
		2,4-Dimethylaniline (2,4-xylydine)	95-68-1	0.010	0.66
		1,2-Phenylenediamine	95-54-5	CMBST; or CHOXD fb	CMBST; or CHOXD fb
				(BIODG or CARBN); or	(BIODG or CARBN); or
				BIODG fb	BIODG fb
				CARBN	CARBN
		1,3-Phenylenediamine	108-45-2	0.010	0.66
*** [See Prior Text in P001 – U411]					

Footnote 1 - Footnote 12...  
[Note: NA means Not Applicable.]

Table 3 - Table 6 ...

Table 7. Universal Treatment Standards			
Regulated Constituent-Common Name	CAS <sup>1</sup> Number	Wastewater Standard Concentration in mg/L <sup>2</sup>	Nonwastewater Standard Concentration in mg/kg <sup>3</sup> unless noted as "mg/L TCLP"
<b>Organic Constituents</b>			
*** [See Prior Text in Acenaphthylene - Aniline]			
o-Anisidine (2-methoxyaniline)	90-04-0	0.010	0.66
*** [See Prior Text in Anthracene - Chrysen]			
p-Cresidine	120-71-8	0.010	0.66
*** [See Prior Text in o-Cresol - Diethyl phthalate]			
2,4-Dimethylaniline (2,4-xylydine)	95-68-1	0.010	0.66
*** [See Prior Text in 2-4-Dimethyl phenol - Phenol]			
1,3-Phenylenediamine	108-45-2	0.010	0.66
*** [See Prior Text in Phorate - Xylenes-mixed isomers (sum of o-, m-, and p- xylene concentrations)]			
<b>Inorganic Constituents</b>			
*** [See Prior Text in Antimony - Zinc <sup>5</sup> ]			

Footnote 1 – Footnote 8 ...

[Note: NA means Not Applicable]

Table 8 - Table 12 ...

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 16:1057 (December 1990), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 22:834 (September 1996), LR 23:566

(May 1997), LR 24:301 (February 1998), LR 24:670 (April 1998), LR 24:1732 (September 1998), LR 25:451 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:282 (February 2000), LR 27:295 (March 2001), LR 29:322 (March 2003), LR 30:1682 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

**Chapter 31. Incinerators**  
**§3105. Applicability**

A. - E. ...

Table 1. Hazardous Constituents			
Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number
* * *			
[See Prior Text in A2213 - Aniline]			
o-Anisidine (2-methoxyaniline)	Benzenamine, 2-Methoxy-	90-04-0	
* * *			
[See Prior Text in Antimony - Creosote]			
p-Cresidine	2-Methoxy-5-methylbenzenamine	120-71-8	
* * *			
[See Prior Text in Cresol (cresylic acid) - p-Dimethylaminoazobenzene]			
2,4-Dimethylaniline (2,4-xylydine)	Benzenamine, 2,4-dimethyl-	95-68-1	
* * *			
[See Prior Text in 7,12-Dimethylbenz[a]anthracene - Phenylenediamine]			
1,2-Phenylenediamine	1,2-Benzenediamine	95-54-5	
1,3-Phenylenediamine	1,3-Benzenediamine	108-45-2	
* * *			
[See Prior Text in Phenylmercury acetate – Ziram]			

Footnote 1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:318 (February 1998), LR 24:681 (April 1998), LR 24:1741 (September 1998), LR 25:479 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:301 (March 2001), LR 28:1004 (May 2002), LR 29:323 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

**Chapter 41. Recyclable Materials**  
**Subchapter C. Special Requirements for Group III**  
**Recyclable Materials**

**§4145. Spent Lead-Acid Batteries Being Reclaimed**

A. - Table. ...

B. Requirements. The requirements of this Section apply to you if you store spent lead-acid batteries before you reclaim them, but you don't reclaim them through regeneration. The requirements are slightly different depending on your RCRA permit status.

1. For interim status facilities, you must comply with:

a. notification requirements under Section 3010 of RCRA and LAC 33:V.105;

b. all applicable provisions in LAC 33:V.Chapter 43, except LAC 33:V.4313 (waste analysis), and 4353 and 4355 (dealing with the use of the manifest and manifest discrepancies); and

c. all applicable provisions in LAC 33:V.Chapters 3, 5, and 7.

2. For permitted facilities, you must comply with:

a. notification requirements under Section 3010 of RCRA and LAC 33:V.105;

b. all applicable provisions in LAC 33:V.Chapter 15, except LAC 33:V.1519, 1521, 1523, 1525, 1527, 1529, and 1531;

c. all applicable provisions in LAC 33:V.1516, except Subsections B and C (dealing with the use of the manifest and manifest discrepancies); and

d. all applicable provisions in LAC 33:V.Chapters 3, 5, 7, 19, 21, 23, 29, 33, 35, and 37.

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 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 13:237 (April 1987), LR 23:579 (May 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:287 (February 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:, LR 32:.

**Chapter 43. Interim Status**  
**Subchapter D. Manifest System, Recordkeeping, and Reporting**

**§4351. Applicability**

A. The regulations in this Subchapter apply to owners and operators of both on-site and off-site facilities, except as LAC 33:V.4307 provides otherwise. LAC 33:V.4353, 4355, and 4363 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources, nor to owners and operators of off-site facilities with respect to military munitions waste.

B. The revised manifest form and procedures in 40 CFR 260.10, 261.7, 265.70, 265.71, 265.72, and 265.76 shall be effective as of September 5, 2006. The manifest form and procedures in the July 1, 2004 CFR shall be applicable until September 5, 2006.

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 by the Office of Waste Services, Hazardous Waste Division, LR 24:1109 (June 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

#### §4353. Use of the Manifest System

A. Interim status facilities must comply with LAC 33:V.1516.

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 17:367 (April 1991), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

#### §4355. Manifest Discrepancies

A. Interim status facilities must comply with LAC 33:V.1516.

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 17:367 (April 1991), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

#### §4356. Unmanifested Waste Report

A. Interim status facilities must comply with LAC 33:V.1516.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:

#### Chapter 49. Lists of Hazardous Wastes

[Comment: Chapter 49 is divided into two sections: Category I Hazardous Wastes, which consist of Hazardous Wastes from nonspecific and specific sources (F and K wastes), Acute Hazardous Wastes (P wastes), and Toxic Wastes (U wastes) (LAC 33:V.4901); and Category II Hazardous Wastes, which consist of wastes that are ignitable, corrosive, reactive, or toxic (LAC 33:V.4903).]

#### §4901. Category I Hazardous Wastes

A. - B.3.c.xii., certification. ...

C. Hazardous wastes from specific sources are listed in Table 2 of this Section.

Industry and EPA Hazardous Waste Number	Hazard Code	Hazardous Waste
K181	(T)	Nonwastewaters from the production of dyes and/or pigments (including nonwastewaters commingled at the point of generation with nonwastewaters from other processes) that, at the point of generation, contain mass loadings of any of the constituents identified in LAC 33:V.4901.C.2 that are equal to or greater than the corresponding LAC 33:V.4901.C.2 levels, as determined on a calendar year basis. These wastes will not be hazardous if the nonwastewaters are: (i) disposed in a Subtitle D landfill unit subject to the design criteria in 40 CFR 258.40; (ii) disposed in a RCRA Subtitle C landfill unit subject to either 40 CFR 264.301 or 265.301; (iii) disposed in other Subtitle D landfill units that meet the design criteria in 40 CFR 258.40, 264.301, or 265.301; or (iv) treated in a combustion unit that is permitted under RCRA Subtitle C, or an onsite combustion unit that is permitted under the Clean Air Act. For the purposes of this listing, <i>dyes and/or pigments production</i> is defined in LAC 33:V.4901.C.1. LAC 33:V.4901.C.3 describes the process for demonstrating that a facility's nonwastewaters are not K181. This listing does not apply to wastes that are otherwise identified as hazardous under 40 CFR 261.21-24 and 261.31-33 at the point of generation. Also, the listing does not apply to wastes generated before any annual mass loading limit is met.
***		
[See Prior Text in Inorganic Chemicals, K071 – Coking, K148]		

1. Listing-Specific Definitions. For purposes of the K181 listing, the following definition applies.

*Dyes and/or Pigments Production*—includes manufacture of the following product classes: dyes, pigments, and FDA certified colors that are classified as azo, triarylmethane, perylene, or anthraquinone classes. Azo products include azo, monoazo, diazo, triazo, polyazo, azoic, benzidine, and pyrazolone products. Triarylmethane products include both triarylmethane and triphenylmethane products. Wastes that are not generated at a dyes and/or pigments manufacturing site, such as wastes from the offsite use, formulation, and packaging of dyes and/or pigments, are not included in the K181 listing.

2. K181 Listing Levels. Nonwastewaters containing constituents in amounts equal to or exceeding the following levels during any calendar year are subject to the K181 listing, unless the conditions in the K181 listing are met.

Constituent	Chemical Abstracts No.	Mass Levels (kg/yr)
Aniline	62-53-3	9,300
o-Anisidine	90-04-0	110
4-Chloroaniline	106-47-8	4,800
p-Cresidine	120-71-8	660
2,4-Dimethylaniline	95-68-1	100
1,2-Phenylenediamine	95-54-5	710
1,3-Phenylenediamine	108-45-2	1,200

Industry and EPA Hazardous Waste Number	Hazard Code	Hazardous Waste
***		
[See Prior Text in Wood Preservation, K001 – Inorganic Pigments, K008]		
<b>Organic Chemicals</b>		
***		
[See Prior Text in K009 – K175]		

3. Procedures for Demonstrating That Dyes and/or Pigment Nonwastewaters Are Not K181. The procedures described in Subparagraphs C.3.a-c and e of this Section establish when nonwastewaters from the production of dyes/pigments would not be hazardous (these procedures apply to wastes that are not disposed in landfill units or treated in combustion units as specified in Table 2 of this Subsection). If the nonwastewaters are disposed in landfill units or treated in combustion units, as described in Table 2 of this Subsection, then the nonwastewaters are not hazardous. In order to demonstrate that it is meeting the landfill disposal or combustion conditions contained in the K181 listing description, the generator must maintain documentation as described in Subparagraph C.3.d of this Section.

a. Determination Based on No K181 Constituents. Generators that have knowledge (e.g., knowledge of constituents in wastes based on prior sampling and analysis data and/or information about raw materials used, production processes used, and reaction and degradation products formed) that their wastes contain none of the K181 constituents (see Paragraph C.2 of this Section) can use their knowledge to determine that their waste is not K181. The generator must document the basis for all such determinations on an annual basis and keep each annual documentation for three years.

b. Determination for Generated Quantities of 1,000 MT/yr or Less for Wastes That Contain K181 Constituents. If the total annual quantity of dyes and/or pigment nonwastewaters generated is 1,000 metric tons or less, the generator can use knowledge of the wastes (e.g., knowledge of constituents in wastes based on prior analytical data and/or information about raw materials used, production processes used, and reaction and degradation products formed) to conclude that annual mass loadings for the K181 constituents are below the listing levels of Paragraph C.2 of this Section. To make this determination, the generator must:

i. each year document the basis for determining that the annual quantity of nonwastewaters expected to be generated will be less than 1,000 metric tons;

ii. track the actual quantity of nonwastewaters generated from January 1 through December 31 of each year. If, at any time within the year, the actual waste quantity exceeds 1,000 metric tons, the generator must comply with the requirements of Subparagraph C.3.c of this Section for the remainder of the year;

iii. keep a running total of the K181 constituent mass loadings over the course of the calendar year; and

iv. keep the following records on site for the three most recent calendar years in which the hazardous waste determinations are made:

(a). the quantity of dyes and/or pigment nonwastewaters generated;

(b). the relevant process information used; and

(c). the calculations performed to determine annual total mass loadings for each K181 constituent in the nonwastewaters during the year.

c. Determination for Generated Quantities Greater than 1,000 MT/yr for Wastes That Contain K181 Constituents. If the total annual quantity of dyes and/or pigment nonwastewaters generated is greater than 1,000 metric tons, the generator must perform all of the steps

described in Clauses C.3.c.i-xi of this Section in order to make a determination that its waste is not K181.

i. Determine which K181 constituents (see Paragraph C.2 of this Section) are reasonably expected to be present in the wastes based on knowledge of the wastes (e.g., based on prior sampling and analysis data and/or information about raw materials used, production processes used, and reaction and degradation products formed).

ii. If 1,2-phenylenediamine is present in the wastes, the generator can use either knowledge or sampling and analysis procedures to determine the level of this constituent in the wastes. For determinations based on use of knowledge, the generator must comply with the procedures for using knowledge described in Subparagraph C.3.b of this Section and keep the records described in Clause C.3.b.iv of this Section. For determinations based on sampling and analysis, the generator must comply with the sampling and analysis and recordkeeping requirements described in Clauses C.3.c.iii-xi of this Section.

iii. Develop a waste sampling and analysis plan (or modify an existing plan) to collect and analyze representative waste samples for the K181 constituents reasonably expected to be present in the wastes. At a minimum, the plan must include:

(a). a discussion of the number of samples needed to characterize the wastes fully;

(b). the planned sample collection method to obtain representative waste samples;

(c). a discussion of how the sampling plan accounts for potential temporal and spatial variability of the wastes;

(d). a detailed description of the test methods to be used, including sample preparation, cleanup (if necessary), and determinative methods.

iv. Collect and analyze samples in accordance with the waste sampling and analysis plan.

(a). The sampling and analysis must be unbiased, precise, and representative of the wastes.

(b). The analytical measurements must be sufficiently sensitive, accurate, and precise to support any claim that the constituent mass loadings are below the listing levels of Paragraph C.2 of this Section.

v. Record the analytical results.

vi. Record the waste quantity represented by the sampling and analysis results.

vii. Calculate constituent-specific mass loadings (product of concentrations and waste quantity).

viii. Keep a running total of the K181 constituent mass loadings over the course of the calendar year.

ix. Determine whether the mass of any of the K181 constituents listed in Paragraph C.2 of this Section generated between January 1 and December 31 of any year is below the K181 listing levels.

x. Keep the following records on site for the three most recent calendar years in which the hazardous waste determinations are made:

(a). the sampling and analysis plan;

(b). the sampling and analysis results (including QA/QC data);

(c). the quantity of dyes and/or pigment nonwastewaters generated;

(d). the calculations performed to determine annual mass loadings.

xi. Nonhazardous waste determinations must be conducted annually to verify that the wastes remain nonhazardous.

(a). The annual testing requirements are suspended after three consecutive successful annual demonstrations that the wastes are nonhazardous. The generator can then use knowledge of the wastes to support subsequent annual determinations.

(b). The annual testing requirements are reinstated if the manufacturing or waste treatment processes generating the wastes are significantly altered, resulting in an increase of the potential for the wastes to exceed the listing levels.

(c). If the annual testing requirements are suspended, the generator must keep records of the process knowledge information used to support a nonhazardous determination. If testing is reinstated, a description of the process change must be retained.

d. Recordkeeping for the Landfill Disposal and Combustion Exemptions. For the purposes of meeting the landfill disposal and combustion condition set out in the K181 listing description, the generator must maintain on site for three years documentation demonstrating that each shipment of waste was received by a landfill unit that is subject to or meets the landfill design standards set out in the listing description, or was treated in combustion units as specified in the listing description.

e. Waste Holding and Handling. During the interim period, from the point of generation to completion of the hazardous waste determination, the generator is responsible for storing the wastes appropriately. If the wastes are determined to be hazardous and the generator has not complied with the RCRA Subtitle C requirements during the interim period, the generator could be subject to an enforcement action for improper management.

D. - G. ...

the Office of Waste Services, Hazardous Waste Division, LR 23:1522 (November 1997), LR 24:321 (February 1998), LR 24:686 (April 1998), LR 24:1754 (September 1998), LR 25:487 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:304 (March 2001), LR 27:715 (May 2001), LR 28:1009 (May 2002), LR 29:324 (March 2003), amended by the Office of Environmental Assessment, LR 31:1573 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

A public hearing will be held on April 25, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez 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 HW090ft. Such comments must be received no later than April 25, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to [judith.schuerman@la.gov](mailto:judith.schuerman@la.gov). The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of HW090ft. This regulation is available on the Internet at [www.deq.louisiana.gov](http://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; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA

Herman Robinson, CPM  
Executive Counsel

0603#052

**NOTICE OF INTENT**

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

Peace Officer Training (LAC 22:III.4715 and 4723)

In accordance with the provision of R.S. 40:2401, et seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et seq., which is the Administrative Procedure Act, The Peace Officer Standards and Training Council hereby gives notice of its intent to promulgate rules and regulations relative to the training of peace officers. There will be no impact on family earnings and family budget as set forth in R.S. 49:972.

<p><b>Table 6.</b> <b>Table of Constituents that Serve as a Basis for Listing Hazardous Waste</b></p>
<p>***</p>
<p>[See Prior Text in EPA Hazardous Waste Number F001 – EPA Hazardous Waste Number K178]</p>
<p><b>EPA Hazardous Waste Number K181</b></p>
<p>Aniline; o-anisidine; 4-chloroaniline; p-cresidine; 2,4-dimethylaniline; 1,2-phenylenediamine; 1,3-phenylenediamine</p>

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:791 (November 1988), LR 15:182 (March 1989), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:829, 840 (September 1996), amended by



**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**

**§4715. Instructor Qualifications**

A. - E. ...

F. POST Corrections Instructors

1. Eligibility for *Level 1* Corrections Instructors

a. All applicants must be both a *Level 1* (320 hr. basic) and *Level 3* (90 hr. correctional officer) peace officer or be a *Level 2* (218 hr. basic corrections) peace officer under the current law; and

b. have two years minimum full time experience in supervising inmates in a jail or correctional facility; and

c. successfully completed the POST/ACA Corrections Instructor Course;

d. no out of state transfers are allowed for corrections instructor certification.

2. Eligibility for *Level 2* Master Corrections Instructors

a. The applicant shall be a POST/ACA Corrections Instructor for at least two years; and

b. be recommended by the head of the agency/department; and

c. successfully completed the POST/ACA Master Corrections Instructor course;

d. the *Level 2* Master Corrections Instructor can train and certify new *Level 1* POST Corrections Instructors.

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 31:2008 (August 2005), LR 32:

**§4723. POST Firearms Qualification Course**

A. Stages of Fire

1. STAGE I—At 25 yards, fire 6 rounds standing barricade, strong-hand, 6 rounds kneeling barricade, strong-hand, 6 rounds standing barricade, SH or OH, off-side. Time Limit: 90 seconds.

a. String I—The shooter must move to cover (barricade), draw and take up standing, strong-hand barricade position. Cover target (person) and give verbal commands. Shooter assumes he is in immediate danger and fires 6 rounds.

b. String II—Shooter then assumes a kneeling, strong-hand barricade position and fires 6 rounds.

c. String III—Shooter assumes off-side barricade position, strong or off-hand, and fires 6 rounds.

2. STAGE II—At 7 yards, fire 6 rounds kneeling (10 seconds), 12 rounds aim fire (25 seconds), 6 rounds off-hand (8 seconds), from ready gun position.

a. String I—Standing position: On command, draw and assume a kneeling position. Fire 6 rounds in 10 seconds.

b. String II—Standing position: On command, draw and fire 6 rounds, reload and fire 6 additional rounds in 25 seconds. Mandatory reloading for all weapons.

c. String III—Standing position with weapon in strong hand, ready gun position. On command, shooter shifts weapon to off hand only and fires 6 rounds in 8 seconds.

3. STAGE III—At 4 Yards, fire 3 rounds - One or two-hand instinct shooting position from holster in 3 seconds; back to ready gun position. 3 rounds - One or two-hand instinct shooting position.

a. String I—Standing position: On command, draw and fire 3 rounds in 3 seconds using instinct shooting position. Cover target for 1 second and assume a ready gun position; then, on command, shooter (using instinct shooting position) fires 3 rounds in 3 seconds.

b. String II—Repeat String I

B. Scoring of Target

1. Introduction. The following guidelines are published to provide a standard target and scoring system for the POST Qualification Course. The POST Qualification Target will be used for the course.

2. Scoring of the POST Target

a. Each hit in the silhouette, outside of the scoring ring, will be scored as one point.

b. Each hit in the scoring ring will be scored as two points.

c. A hit will not be recorded in the next higher scoring ring unless it breaks the line.

3. Qualification Requirements

a. Shooter must shoot 80 percent of possible 120. (80 percent = 96).

b. Basic academy qualification shooter will fire course 4 consecutive times and must average 80 percent minimum.

c. For in-service training, POST Course must be fired once annually with 80 percent minimum score.

d. For qualification course, basic or in-service, certified POST instructor must score the target.

e. For basic academy, qualification course should be fired in order listed. In-service course may be fired in any order.

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 25:665 (April 1999), LR 32:

Interested persons may submit written comments on this proposed Rule no later than May 10, 2006 at 5 p.m. to Bob Wertz, Peace Officer Standards and Training Council, Louisiana Commission on Law Enforcement, 1885 Wooddale Boulevard, Room 1230, Baton Rouge, LA 70806.

Michael A. Ranatza  
Executive Director

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

**RULE TITLE: Peace Officer Training**

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

The proposed rule will have no impact on expenditures on state or local governmental units. The proposed rule change updates previous changes made to the basic POST firearms qualification course.

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

The proposed rule will not increase revenue collections of state and local governmental units.

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

The proposed rule will have little or no effect on directly affected persons or non-governmental groups. The proposed rule change reflects previous changes made to the basic POST firearms qualification course.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on either competition or employment.

Michael A. Ranatza  
Executive Director  
0603#033

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Office of the Commissioner**

Small Entrepreneurship (Hudson Initiative)—Procurement (LAC 19:VIII.Chapters 11 and 13)

The Division of Administration, Office the Commissioner of Administration, in accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, proposes to adopt LAC 19:VIII, Subpart 2, under the authority of R.S. 39:2007(F). The purpose of this promulgation is to provide for the establishment of regulations governing procurements made as part of the Louisiana Initiative for Small Entrepreneurships (Hudson Initiative), R.S. 39:2001 through 2008 and R.S. 51:931. This Rule will allow for coordination of state procurement with the February 20, 2006, implementation of Small Entrepreneurship certification procedures by the Department of Economic Development pursuant to LAC 19:VIII, Subpart 1.

**Title 19**

**CORPORATIONS AND BUSINESS**

**Part VIII. Small Entrepreneurship (Hudson Initiative)**

**Subpart 2. Procurement**

**Chapter 11. General Provisions**

**§1101. Purpose**

A. The State of Louisiana's Small Entrepreneurship (Hudson Initiative) Program, hereinafter called SE (HI), was created to provide additional opportunities for Louisiana-based small entrepreneurships, hereinafter called SE's, to participate in contracting and procurement with the state of Louisiana. By formalizing existing practices and implementing new procedures, the SE (HI) will allow the state of Louisiana to target more effectively certified SE participation and create opportunities relating to the state's contracting and procurement. Shown below are the key features of the SE (HI).

B.1. The SE (HI) is a goal-oriented program, encouraging state agencies to contract with certified SE's as well as encouraging contractors who receive contracts from the state to use good faith efforts to utilize certified SE's. The SE (HI) is a race and gender-neutral program. SE (HI) participation is restricted to Louisiana-based certified SE's in accordance with rules promulgated by the Louisiana Department of Economic Development.

a. The state will establish annual goals for certified SE participation in state procurement and public contracts. Contract goals will vary based on contracting and subcontracting opportunities, availability of certified SE's, and price competitiveness.

b. To participate, SE's must be certified by the Louisiana Department of Economic Development. Certification is based on a firm's gross revenues, number of employees, and other criteria as specified by Act 440 of the 2005 Legislative Session.

c. The SE (HI) has guidelines for counting certified SE participation.

d. The SE (HI) incorporates several procedures to help implement the initiative.

2. These procedures are designed to maximize the initiative's success, including:

a. assisting certified SE's and contractors by providing information, practical advice, and support;

b. strongly encouraging joint ventures and/or alliances among certified SE's and larger firms;

c. assisting in developing a mentoring program for certified SE's with appropriate private sector businesses and individuals;

d. requiring bidders and proposers to provide written assurance of certified SE participation in their bids and proposals;

e. providing workshops and training sessions to acquaint certified SE's with state procurement and public contract proposal and bidding practices, including problems frequently encountered by certified SE's during the proposal/bid process and generally while doing work for the state;

f. maintaining an updated certified SE directory and source list(s) on the Internet to help identify qualified and available certified SE's; and

g. making the state's central procurement website (LaPac) available for agencies to indicate that a particular procurement has been designated for SE participation.

3. For designated contracts, the SE (HI) requires good-faith efforts by contractors to use certified SE's in contract performance. The SE (HI) has procedures in place to determine whether contractors are meeting this requirement of good-faith efforts. Contractors are required to document their efforts to obtain certified SE participation. A contract award may be denied or an existing contract may be terminated if the state becomes aware that the contractor in fact failed to use good-faith efforts. The state recognizes that availability, subcontracting capabilities, and price competitiveness are relevant factors in determining whether a contractor has used good-faith efforts to subcontract with certified SE's.

4. The state may impose sanctions on a contractor who fails to make good-faith efforts or on an SE that was found to be guilty of deception relating to certification. Sanctions may include a suspension from doing business with the state for up to three years. Procedures are in place to provide an opportunity for due process for any contractor or SE prior to the suspension.

5. The SE (HI) is race and gender neutral. The SE (HI) shall not be used to discriminate against any person, company, or group of persons or companies. It is the policy

of the state to prohibit discrimination based on race, gender, religion, national or ethnic origin, age, disability, or sexual orientation. Contractors and/or certified SE's that violate the state's non-discrimination mandate in the operations of the SE (HI) will be subject to sanctions.

C. The state utilizes various purchasing methods to acquire goods and services, including requests for proposals (RFP), invitations to bid (ITB), and purchase orders. The state determines which purchasing method to use based upon statutes and regulations applicable to the nature of the procurement.

1. The state will monitor the progress of the SE (HI), reviewing participation reports, community input, recommendations, and operational efficiency. Annual reports will be made to the House Committee on Appropriations and the Senate Committee on Finance addressing the number of contracts awarded to certified SE's, the number of contracts that included a good faith SE subcontracting plan, and the dollar value of SE contracts.

2. Nothing in the SE (HI) should be construed to give a proposer/bidder a property interest in an ITB, RFP, or contract prior to the state's award of the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

### **§1103. Mission and Policy Statement**

A. Act 440 of the 2005 legislative session enacted R.S. 39:2001, et seq. and R.S. 51:931, creating the Small Entrepreneurship (Hudson Initiative) Program for the state of Louisiana. As enacted, the SE (HI) is a goal-oriented program, encouraging the state to contract with certified SE's as well as encouraging the state's contractors to use good-faith efforts to utilize Louisiana-based certified SE's as subcontractors.

B. It is the mission of the state to promote trade and economic development. It is the state's policy to promote economic development and business opportunities for all sectors of our community. Certified SE's need to be given an opportunity to participate in a fair portion of the total purchases and contracts for property, services, and construction for the state. Therefore, the state establishes the SE (HI) to ensure opportunities for certified SE's to participate in the state's contracting and procurement opportunities and ultimately to enhance the stability of Louisiana's economy.

C. As a matter of policy, the state recognizes and requires competitive pricing, qualifications, and demonstrated competencies in the selection of contractors. The SE (HI) is designed to create opportunities, while requiring competitiveness and quality of work. As such, it allows the state to target more effectively and strive to increase certified SE participation in the state's contracting and procurement activities. In its operations, the SE (HI) will assist the state in its mission of promoting economic development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

### **§1105. Scope**

A. These procedures apply to all state departments, prime contractors, subcontractors, and certified SE's involved with SE (HI) contracts. These procedures do not apply to agency expenditures for amortization of debt, debt service, depreciation, employee benefits, per diem, relocation expenses, salaries, postage, and transfer of charges. These procedures do not apply to contracts for sole source items, contracts with other governmental entities, and those contracts that are prohibited by federal law from inclusion in these procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

## **Chapter 13. Procedures**

### **§1301. Operational Procedures**

A. The procedures herein are established to govern the program components of the SE (HI) including, without limitation, program compliance, specific implementation measures, purchasing methods, reporting of certified SE participation, imposition of sanctions, and dispute resolution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

### **§1303. Objectives**

A. The overall objectives for this program are:

1. to implement the policy of the SE (HI) to promote economic development and business opportunities for all sectors throughout the state;

2. to ensure opportunities for certified SE's to participate in all phases of the state's contracting activities;

3. to stimulate participation of Louisiana-based certified SE's with the state and create opportunities through the state's contracting and procurement;

4. to encourage certified SE's to seek work from prime contractors when qualified and work is available;

5. to formalize existing procurement and contracting practices and implement new procurement and contracting procedures to assist more effectively certified SE participation;

6. to carry out the mandate of the state as enacted by Act 440 of the 2005 Legislative Session;

7. to ensure nondiscriminatory practices in the use of certified SE's for state contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

### **§1307. Reserved.**

### **§1309. Overall Annual SE (HI) Goals and Agency Participation Levels**

A. Overall Annual Goals. Overall annual goals for SE (HI) participation for the state will be set each year by the Commissioner of Administration as a percentage increase based on prior year activity.

B. Individual Agency Participation Levels. The Commissioner of Administration will provide guidance on

how agencies will determine participation levels. The criteria used to set individual agency participation levels may include but not be limited to certified SE capacity, certified SE availability, nature of the contract, past experiences with SE (HI) participation, recognized industry composition, and subcontracting opportunities. No quotas or set-asides will be used in implementing the SE (HI).

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

### §1311. Purchasing Methods

A. The state utilizes various purchasing methods to acquire goods, services, major repairs and public works including requests for proposals (RFP), invitations to bid (ITB), and purchase orders. The procurement method to be used is based upon statutes and regulations applicable to the nature of the procurement.

B. Nothing in the SE (HI) should be construed to give a proposer/bidder a property interest in an ITB, RFP, or contract prior to the state's award of the contract.

C. Agencies will participate in the program by using any or all of the following procurement methods:

1. purchasing directly from a certified SE within the agency's discretionary procurement authority for goods, operating services, major repairs, construction and personal, professional and consulting services;

2. issuing an order to a certified SE (prime contractor or distributor) on statewide contract;

3. using an ITB process to award a contract either to a certified SE or to a bidder who can demonstrate a good faith plan to use certified SE's as subcontractors in performing the prime contract. To be responsive to the ITB the bidder must be either a certified SE or be able to demonstrate its good faith subcontracting plan:

a. good faith subcontracting plans in an invitation to bid:

i. the ITB will require the bidder to certify that the bidder is either a certified SE or that the bidder has a good faith subcontracting plan;

ii. the following describes the process a non-certified SE bidder shall follow in order to comply with the requirement for a good faith subcontracting plan:

(a). the bidder has or will use the SE (HI) certification list maintained by the Department of Economic Development to provide notice of the potential subcontracting opportunities to three or more certified SE's capable of performing the subcontract. Notification must be provided to the certified SE's no less than five working days prior to the date of bid opening;

(b). written notification is the preferred method to inform certified SE's. This written notification may be transmitted via fax and/or e-mail;

(c). written notification must include:

(i). the scope of work;

(ii). information regarding the location to review plans and specifications (if applicable);

(iii). information about required qualifications and specifications;

(iv). bonding and insurance information and/or requirements (if applicable);

(v). contact person;

(d). the successful bidder must be able to provide written justification of the selection process if a certified SE was not selected;

b. post audits may be conducted. In the event that there is a question as to whether the low bidder's good faith subcontracting plan was complied with, the prime contractor must be able to provide supporting documentation to demonstrate its good faith subcontracting plan was actually followed (i.e., phone logs, fax transmittals, letters, e-mails). If it is at any time determined that the contractor did not in fact perform its good faith subcontracting plan, the contract award or the existing contract may be terminated;

4. using a request for proposals (RFP) process to award a contract to a certified SE or to a proposer demonstrating a good faith effort to use certified SE's as subcontractors:

a. if an agency decides to issue an RFP to satisfy its SE (HI) goal, the procurement process will include either of the following:

i. require that each proposer either be a certified SE, or have made a good faith subcontracting effort in order to be responsive; or

ii. reserve 10 percent of the total RFP evaluation points for otherwise responsive proposers who are themselves a certified SE or who have made a good faith effort to use one or more SE's in subcontracting;

b. in evaluating proposals, the evaluation committee will follow the scoring criteria set forth in the RFP. In its evaluation process, the evaluation committee will not give additional points for SE participation beyond the designated amount set forth in the RFP;

c. good faith subcontracting in a request for proposal:

i. proposers alleging to have made a good faith subcontracting effort may be required in the RFP to verify their good faith subcontracting plan. A good faith effort can be evidenced by many things including those listed below:

(a). the proposer divided the contract work into reasonable lots or portions;

(b). the proposer used the SE (HI) certification list maintained by the Department of Economic Development to provide notice to three or more certified SE's of the potential subcontracting opportunities available in performance of the prime subcontract. Notification must have been provided to the certified SE's no less than five working days prior to the submission of the proposal;

(c). the notification from the proposer was in writing. This written notification may have been transmitted via fax and/or e-mail;

(d). the written notification gave the SE's complete information regarding the potential subcontract including such things as:

(i). the scope of work;

(ii). information regarding the location to review plans and specifications (if applicable);

(iii). information about required qualifications and specifications;

(iv). bonding and insurance information and/or requirements (if applicable);

(v). contact person;

ii. an RFP under Clause 4.a.i shall require all proposers who are not certified SE's to certify they made a good faith subcontracting effort in their proposals;

iii. an RFP under Clause 4.a.ii may require that proposals include a proposed schedule of certified SE participation that lists the names of potential certified SE subcontractors, a description of the work each would perform, and the dollar value of each proposed certified SE subcontract;

iv. an RFP under Clause 4.a.ii may require that proposers provide documentation to demonstrate their good faith subcontracting effort (i.e., phone logs, fax transmittal logs, letters, e-mails) in order to receive any reserved points;

v. proposers responding to RFP's under either Clauses 4.a.i or 4.a.ii may be asked to provide written justification of the subcontractor selection process if a certified SE is not used as a subcontractor;

d. if at any time the state determines that the contractor did not in fact make a good faith effort, the contract award or the existing contract may be terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

### **§1313. Procedures for Counting Small Entrepreneurship Participation**

A. The state may count towards its SE (HI) goals the total dollar value of the contract awarded to the certified SE, if the certified SE is the prime contractor.

B. The state may count the total dollar value of a contract that is subcontracted to a certified SE.

C. The state may count towards its SE (HI) goals the total dollar value of a contract awarded to a joint venture, of which a certified SE is a part. The joint venture must provide an affidavit stating the amount of work actually performed by the certified SE.

D. The state may count toward its SE (HI) goals the total dollar value of the contract if the RFP contemplated awarding ten percent of the total evaluation points to a proposer who demonstrated good faith efforts to use certified SE's as subcontractors, but was unsuccessful in doing so.

E. The state may count toward its SE (HI) goals the total dollar value of those contracts in which the contractor has provided a good faith subcontracting plan as part of the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

### **§1315. Certification Procedures**

A. Certification procedures are in accordance with rules and regulations promulgated by the Louisiana Department of Economic Development. (LAC 19:VII.Subpart A)

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

### **§1317. Implementation Procedures**

A. In an effort to maximize the SE (HI)'s success, the following procedures will be implemented to maximize opportunities for certified SE participation.

1. The Division of Administration and state departments/agencies are responsible for the direct operation and direct implementation of the SE (HI).

2. Each department/agency of the state shall choose an initiative coordinator. The person chosen to be initiative coordinator shall be the person serving as the undersecretary of the department or the business manager for an agency. The initiative coordinator or his designee shall be responsible for acting as a business advisor to work directly with certified SE's and contractors to provide information, assistance, and support. The Division of Administration and state departments/agencies will undertake various tasks to make the program workable, including the following:

a. provide information to certified SE's on the state's organization and contractual needs and offer instructions on procurement policy, procedures, and general RFP/ITB requirements;

b. provide workshops and training sessions at least twice each year for certified SE's on challenges frequently encountered by certified SE's during bid/proposal process and generally when doing work for the state;

c. enhance the existing state's procurement and financial database to identify certified SE's for historical and reporting purposes;

d. hold pre-bid and pre-proposal seminars to explain bid and proposal requirements, including an explanation of the forms that must be submitted with the response or proposal;

e. conduct outreach activities;

f. conduct internal information workshops to inform and acquaint the state employees responsible for state procurement and public contracts with the goals and objective of the state's SE (HI) initiative and to sensitize them to the problems of SE's;

g. inform certified SE's of ITB's and RFP's related to their capabilities by placing notices on the state's central procurement website, LaPac.

3. The state will encourage the formation of joint ventures/alliances among certified SE's and larger firms to provide opportunities for certified SE's to gain experience.

4. The state will encourage a mentoring program between large businesses and certified SE's to share information and experiences.

5. In RFP's requiring the compliance of a good faith subcontracting plan the state may require proposers to submit information on their business relationships and arrangements with certified SE subcontractors at the time of proposal review. Agreements between a proposer and a certified SE subcontractor in which the certified SE subcontractor promises not to provide subcontracting quotations to other proposers shall be prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

### **§1319. Legal Remedies**

A. Legal remedies will be in accordance with applicable procurement statutes including contract controversies, suspension and/or debarment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

**§1321. Reporting Procedures**

A. The Commissioner of Administration is charged with the preparation of an annual report on the progress of the SE (HI) in the most recently ended fiscal year. The commissioner must present the report to the House Committee on Appropriations and the Senate Committee on Finance by the fifteenth day of January each year. Therefore, information for the commissioner's report regarding an agency's achievement of SE (HI) goals must be submitted to the commissioner no later than the first day of October each year. Each agency is required to report for the preceding fiscal year:

1. total number and dollar value of all contracts awarded in whole or in part to certified SE's;
2. number of contracts and the value of the contracts that included a good faith certified SE subcontracting plan;
3. number of actual agency staff that attended Division of Administration training for SE (HI) and the number of certified SE's that attended workshops and training sessions.

B. On-line forms for consistency in reporting will be provided on the commissioner's home page. A new "activity code" will be established in ISIS to track expenditures related to SE (HI). Agencies that do not use ISIS must develop their own mechanism to capture SE (HI) expenditures in order to provide reporting information to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

**Family Impact Statement**

1. The proposed Rule will not affect the stability of the family.
2. The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of children.
3. The proposed Rule will not affect the functioning of the family.
4. The proposed Rule will not affect family earnings or family budget.
5. The proposed Rule will not affect the behavior or personal responsibility of children.
6. The proposed Rule deals strictly with the state's procurement function.

All interested persons may submit written comments on the proposed Rule through April 10, 2006, to Denise Lea, Office of State Purchasing, P.O. Box 94095, Baton Rouge, LA 70804. All interested persons will be afforded an opportunity to submit data, views, or arguments in writing at the address above.

Denise Lea  
Director

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

**RULE TITLE: Small Entrepreneurship (Hudson Initiative)—Procurement**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There should be no additional costs incurred, nor a savings realized, as a result of the adoption of these rules. The rules explain procedures to be used in procurements involving the Small Entrepreneurship certified by the Department of Economic Development. The implementation of the program may result in marginal additional costs for contracts if higher priced small entrepreneurships are chosen over lower cost competitors. The extent to which this might occur cannot be anticipated. The rules provide for goals to be set but do not specify those goals at this time.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There should be no effect on revenue as a result of the rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Certified small entrepreneurships will benefit from this rule by their increased participation in public procurement.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be a positive effect on competition and employment as business opportunities for small entrepreneurships are increased.

Denise Lea  
Director  
0603#072

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

Provisional Licensure for Dental Healthcare Providers  
(LAC 46:XXXIII.128)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to adopt LAC 46:XXXIII.128. No preamble has been prepared.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part XXXIII. Dental Health Profession**

**Chapter 1. General Provisions**

**§128. Provisional Licensure for Dental Healthcare Workers Providing Gratuitous Services**

A. The Board of Dentistry may grant a provisional license not to exceed 60 days in duration for any dentist or dental hygienist who is in good standing in the state of their licensure and who wishes to provide gratuitous services to

the citizens of Louisiana at sites specified by the Department of Health and Hospitals provided:

1. the applicant is verified by the board to be in good standing in the state of licensure where the applicant is licensed;

2. the applicant provides satisfactory documentation to the board that the dental healthcare provider is assigned to provide gratuitous services at sites specified by the Department of Health and Hospitals;

3. the applicant agrees to render services on a gratuitous basis with no revenue of any kind to be derived whatsoever from the provision of dental services within the state of Louisiana.

B. The board may renew this provisional license for no more than an additional 60 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(6) and (8) and R.S. 49:953(B)

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 32:

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

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Provisional Licensure  
for Dental Healthcare Providers**

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

Other than the rule publication costs, which are estimated to be \$200 in FY 06, it is not anticipated that the proposed rule amendments will result in any material costs or savings to the Board of Dentistry, any state unit or local governmental unit. Notification of these rule changes will be included in a mass mailing to all licensees, which has already been budgeted for notification of such rule changes.

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

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

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

The effect of this rule would be to allow licensed dental healthcare workers (approximately 200) to provide dental healthcare to citizens of Louisiana on a gratuitous basis. The Louisiana citizens receiving this dental healthcare will receive an economic benefit as the healthcare will be provided free of charge.

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

There is no estimated effect on competition and employment.

C. Barry Ogden  
Executive Director  
0603#071

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of Public Health**

**Infectious Disease Epidemiology Program  
(LAC 51:II.Chapter 1)**

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health pursuant to the authority in R.S. 40:5, proposes to amend Title 51, Part II, Chapter 1 providing for the control of diseases and disease reporting requirements. The proposed changes represent upgrades to the present Sanitary Code to accommodate new diseases and conditions of public health concern, to expand the list of health care providers required to report, and to clarify reporting requirements for laboratories. The proposed changes to the Sanitary Code are divided into five categories: (1) make additions and amendments to the list of Reportable Diseases and Conditions; (2) add Laboratory Directors and Poison Control Centers to the list of health care providers required to report; (3) amend the definition of the types of cases that must be reported by health care providers; (4) amend the definition of cases that the State Health Officer may investigate; and (5) amend and clearly define the reporting requirements of clinical laboratories operating within or outside of the state.

**Title 51**

**PUBLIC HEALTH—SANITARY CODE**

**Part II. The Control of Diseases**

**Chapter 1. Disease Reporting Requirements  
§101. Definitions [formerly paragraph 2:001]**

A. ...

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*Case of Arsenic Exposure*—any medical condition/visit resulting from arsenic exposure as determined from the exposure history or patient statement and/or injury resulting from inhalation, ingestion, dermal exposure or ocular contact with arsenic. Laboratory test results for arsenic: includes results of arsenic tests (blood, urine, or tissue samples), regardless of test result.

*Case of Cadmium Exposure*—any medical condition/visit resulting from cadmium exposure as determined from the exposure history or patient statement and/or injury resulting from inhalation, ingestion, dermal exposure or ocular contact with cadmium. Laboratory test results for cadmium: includes results of cadmium tests (blood, urine, or tissue samples), regardless of test result.

*Case of Lead Exposure*—any medical condition/visit resulting from lead exposure as determined from the exposure history or patient statement and/or injury resulting from inhalation, ingestion, dermal exposure or ocular contact with lead. Laboratory test results for lead: includes results of lead tests (blood, urine, or tissue samples), regardless of test result.

*Case of Mercury Exposure*—any medical condition/visit resulting from mercury exposure as determined from the exposure history or patient statement and/or injury resulting from inhalation, ingestion, dermal exposure or ocular contact with mercury. Laboratory test results for mercury: includes results of mercury tests (blood, urine, or tissue samples), regardless of test result.

*Case of Pesticide-Related Illness and Injury*—any medical condition/visit resulting from pesticide exposure as determined from the exposure history or patient statement and/or acute, subacute, or chronic illness or injury resulting from inhalation, ingestion, dermal exposure or ocular contact with a pesticide. Laboratory test results for pesticide-related illness and injury includes results of cholinesterase tests (plasma and red blood cell), regardless of test results, for which the purpose of the test was possible pesticide exposure; and tests of pesticides or metabolites in blood, urine, or tissue samples, regardless of test results.

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*Pesticide*—any pesticide defined in the Louisiana Pesticide Law (Louisiana Revised Statutes Chapter 20, 1999) as now stated and as may be amended in the future. Pesticides include but are not limited to insecticides, herbicides, rodenticides, repellants, fungicides, and wood treatment products.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002), amended LR 32:

**§105. Reportable Diseases and Conditions [ formerly paragraph 2:003]**

A. The following diseases or conditions are hereby declared reportable with reporting requirements by Class.

1. Class A Diseases or Conditions which Shall Require Reporting within 24 Hours

a. This class includes diseases of major public health concern because of the severity of disease and potential for epidemic spread. Class A diseases or conditions shall be reported to the Office of Public Health by telephone immediately upon recognition that a case, a suspected case, or a positive laboratory result is known. In addition, all cases of rare or exotic communicable diseases, unexplained death, unusual cluster of disease and all outbreaks shall be reported. The following diseases or conditions shall be classified as Class A for reporting requirements:

- i. Anthrax;
- ii. Avian Influenza;
- iii. Botulism;
- iv. Brucellosis;
- v. Cholera;

- vi. Diphtheria;
- vii. Haemophilus influenzae (invasive infection);
- viii. Influenza-associated Mortality;
- ix. Measles (rubeola);
- x. Neisseria meningitidis (invasive infection);
- xi. Plague;
- xii. Poliomyelitis (paralytic);
- xiii. Q Fever (Coxiella burnetii);
- xiv. Rabies (animal and human);
- xv. Rubella (congenital syndrome);
- xvi. Rubella (German measles);
- xvii. Severe Acute Respiratory Syndrome-associated Coronavirus (SARS-CoV);
- xviii. Staphylococcus aureus, Vancomycin Intermediate or Resistant (VISA/VRSA);
- xix. Smallpox;
- xx. Tularemia;
- xxi. Viral Hemorrhagic Fever;
- xxii. Yellow Fever.

2. Class B Diseases or Conditions which Shall Require Reporting within One Business Day

a. This class includes diseases of public health concern needing timely response because of potential for epidemic spread. The following Class B diseases shall be reported to the Office of Public Health by the end of the next business day after the existence of a case, a suspected case, or a positive laboratory result is known:

- i. Arthropod-Borne Neuroinvasive Disease and other infections (including West Nile, St. Louis, California, Eastern Equine, Western Equine and others);
- ii. Aseptic meningitis;
- iii. Chancroid<sup>1</sup>;
- iv. Escherichia coli, Shiga-toxin producing (STEC), including E. coli O157:H7;
- v. Hantavirus Pulmonary Syndrome;
- vi. Hemolytic-Uremic Syndrome;
- vii. Hepatitis A (acute illness);
- viii. Hepatitis B (acute illness and carriage in pregnancy);
- ix. Hepatitis B (perinatal infection);
- x. Hepatitis E;
- xi. Herpes (neonatal);
- xii. Legionellosis;
- xiii. Malaria;
- xiv. Mumps;
- xv. Pertussis;
- xvi. Salmonellosis;
- xvii. Shigellosis;
- xviii. Syphilis<sup>1</sup>;
- xix. Tetanus;
- xx. Tuberculosis<sup>2</sup>;
- xxi. Typhoid Fever.

3. Class C Diseases or Conditions which Shall Require Reporting within Five Business Days

a. This class shall include the diseases of significant public health concern. The following diseases shall be reported to the Office of Public Health by the end of the workweek after the existence of a case, suspected case, or a positive laboratory result is known:

- i. Acquired Immune Deficiency Syndrome (AIDS)
- ii. Blastomycosis;



- iii. Campylobacteriosis;
  - iv. Chlamydial infection<sup>1</sup>;
  - v. Coccidioidomycosis;
  - vi. Cryptococcosis;
  - vii. Cryptosporidiosis;
  - viii. Cyclosporiasis;
  - ix. Dengue;
  - x. Ehrlichiosis;
  - xi. Enterococcus, Vancomycin Resistant [(VRE),  
invasive disease];
  - xii. Giardia;
  - xiii. Gonorrhea<sup>1</sup>;
  - xiv. Hansen Disease (leprosy);
  - xv. Hepatitis B (carriage, other than in pregnancy);
  - xvi. Hepatitis C (acute illness);
  - xvii. Hepatitis C (past or present infection);
  - xviii. Human Immunodeficiency Virus (HIV);
  - xix. Listeria;
  - xx. Lyme Disease;
  - xxi. Lymphogranuloma venereum<sup>1</sup>;
  - xxii. Psittacosis;
  - xxiii. Rocky Mountain Spotted Fever (RMSF);
  - xxiv. Staphylococcal Toxic Shock Syndrome;
  - xxv. Staphylococcus aureus, Methicillin/Oxacillin  
Resistant [(MRSA), invasive infection];
  - xxvi. Streptococcal disease, Group A (invasive  
disease);
  - xxvii. Streptococcal disease, Group B (invasive  
disease);
  - xxviii. Streptococcal Toxic Shock Syndrome;
  - xxix. Streptococcus pneumoniae, Penicillin Resistant  
[(DRSP), invasive infection];
  - xxx. Streptococcus pneumoniae (invasive infection  
in children <5 years of age);
  - xxxi. Transmissible Spongiform Encephalopathies;
  - xxxii. Trichinosis;
  - xxxiii. Varicella (chickenpox);
  - xxxiv. Vibrio infections (other than cholera).
4. Class D Special Reportable Diseases or Conditions  
Shall Require Reporting within Five Business Days
- a. This class shall include the diseases of significant  
public health concern. The following diseases/conditions  
shall be reported to the Office of Public Health by the end of  
the workweek after the existence of a case, suspected case,  
or a positive laboratory result is known:
    - i. Cancer;
    - ii. Complications of abortion;
    - iii. Congenital hypothyroidism<sup>3</sup>;
    - iv. Galactosemia<sup>3</sup>;
    - v. Heavy Metal (Arsenic, Cadmium, Mercury)
- Exposure and/or Poisoning (All Ages);
- vi. Hemophilia<sup>3</sup>;
  - vii. Lead Exposure and/or Poisoning (All Ages)<sup>3</sup>;
  - viii. Pesticide-Related Illness or Injury (All Ages);
  - ix. Phenylketonuria<sup>3</sup>;
  - x. Reye's Syndrome;
  - xi. Severe traumatic head injury;
  - xii. Severe under nutrition (severe anemia, failure  
to thrive);
  - xiii. Sickle cell disease (newborns)<sup>3</sup>;
  - xiv. Spinal cord injury;
  - xv. Sudden infant death syndrome (SIDS).

B. Case reports not requiring special reporting instructions (see below) can be reported by Confidential Disease Report forms (2430), facsimile, phone reports or through the Office of Public Health's electronic Reportable Disease Database: <https://ophrdd.dhh.state.la.us>.

1. <sup>1</sup>Report on STD-43 form. Report cases of syphilis with active lesions by telephone.

2. <sup>2</sup>Report on CDC72.5 (f.5.2431) card.

3. <sup>3</sup>Report to the Louisiana Genetic Diseases Program and Louisiana Childhood Lead Poisoning Prevention Programs.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002), amended LR 32:

**§109. Reports by All Health Care Providers [formerly paragraph 2:006]**

A. It shall be the duty of every osteopath, coroner, medical examiner, dentist, homeopath, infection control practitioner, laboratory director, medical records director, nurse, nurse midwife, nurse practitioner, pharmacist, physician assistant, podiatrist, poison control center, social worker, veterinarian, and any other health care professional to report, a positive laboratory result, a confirmed or suspected case of any reportable disease or condition as specified in §105 in which he or she has examined or evaluated, or for which he or she is attending or has knowledge.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1213 (June 2002), amended LR 32:

**§113. Laboratory Reporting Requirements [formerly paragraph 2:008]**

A. The director of every laboratory whether public, private, hospital or other, within or out of the state shall report to the State Health Officer the results of all tests that are in any way clinically relevant, suggestive or indicative of an individual having active disease, past or present exposure to, past or present contact with and/or past or present association with any of the disease/conditions listed in the Public Health Sanitary Code, Part II, Chapter 1, §105. The results of the tests to be reported to the state health officer do not have to be conducted for diagnostic reasons, nor do the results have to be diagnostic or confirmatory. The report should be received in a timely manner consistent with the requirements of the diseases/conditions Class described in §105 and shall state the name, date of birth, sex, race, usual residence, specimen identification code/ID and test results of the tested individual as well as the name of the physician or person submitting the specimen. Contact information for the laboratory performing the test(s) must be provided. Laboratories shall not defer their Public Health Reporting responsibilities to other authorities (e.g., Infection Control) within the institutions they serve. In addition, laboratories performing tests on specimens received from other laboratories shall report to the state health officer all results as prescribed above plus the contact information for the facility/laboratory where the specimen originated. Moreover, no considerations, evaluations or concerns, regarding any test technology or test result by institutions and/or

organizations whether federal, state or otherwise (e.g., FDA, CMS-CLIA, etc.) which may be overseeing, approving, evaluating or licensing laboratory testing, shall represent an a priori rationale for withholding laboratory reports from the state health officer.

B. Laboratory reports shall not be construed by the Office of Public Health as diagnosis. In the case of private patients, follow-up of laboratory reports shall be through the physician(s) submitting the specimen(s).

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1214 (June 2002), amended LR 32:

**§115. Investigations [formerly paragraphs 2:009]**

A. The state health officer may immediately upon receiving notification of any communicable disease or reportable condition, investigate as the circumstances may require for the purpose of verification of the diagnosis, to ascertain the source of the causative agent, to disclose unreported cases and to reveal susceptible contacts if such information is required to prevent a serious health threat to the community. The decision of the state health officer as to the diagnosis shall be final, for administrative purposes.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1214 (June 2002), amended LR 32:

**Family Impact Statement**

1. The Effect on the Stability of the Family. The proposed Rule represents a positive action toward the stability of the family as it designed to enhance public health reporting of pesticide-related illness and injury and heavy metal poisoning.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed changes to the Sanitary Code do not in anyway concern or challenge the authority of parents to educate or supervise their children.

3. The Effect on the Functioning of the Family. The proposed Rule represents a positive action toward the functioning of Louisiana families as it is designed to enhance the efficacy of public health activities within the state.

4. The Effect on Family Earnings and Family Budget. The proposed changes to the Sanitary Code do not require additional fees, fines, taxes or funding of any kind that will have to be supported or subsidized by Louisiana families.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule is beneficial toward the behavior and personal responsibility of children as it will enable public health officials to investigate cases of pesticide and heavy metal poisoning, thus preventing ongoing exposure and health problems associated these environmental diseases.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule.

The proposed Rule will not impact families or local government functions.

A public hearing on the proposed changes will be held on April 25, 2006, at 10:30 a.m. in Room 126 of the Blanche Appleby Computer Complex Building (on the Jimmy Swaggart Ministries Campus), 6867 Bluebonnet Boulevard, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing. Interested persons may submit written comments to Michelle Lackovic, Department of Health and Hospitals, Office of Public Health, Section of Environmental Epidemiology and Toxicology, P.O. Box 60630, New Orleans, LA 70160.

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

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Infectious Disease  
Epidemiology Program**

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

There are no implementation costs anticipated other than the \$200 cost of printing the Notice of Intent and the Rule in the *Louisiana Register*.

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

Revenue collections of State or Local Governments will not be affected by this proposed rule change.

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

The primary impact will be to enhance the State's ability to collect vital data on diseases and conditions from public and private providers of health care. The proposed changes to the Sanitary Code will not have a direct economic impact upon individuals or businesses within Louisiana. The proposed changes to the Sanitary Code will impact, as does the present Sanitary Code, a large number of health care providers across the State. Although the Office of Public Health is requesting a higher degree of participation from the public and private sector regarding the reporting of diseases/conditions, no significant costs for these health care providers is anticipated above and beyond their present expenditures. Reporting systems from health care providers are already in place. The proposed changes will increase the number of diseases/conditions that providers must report using their pre-established reporting systems. The addition of Laboratory Directors and Poison Control Centers to the list of health care providers required to report codifies current reporting practices. Reporting systems for laboratories and the Louisiana Poison Control Center are currently in place.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment anticipated by this proposed rule change.

Sharon G. Howard  
Assistant Secretary  
0603#070

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

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

#### Nursing Facilities—Minimum Licensing Standards (LAC 48:I.9717, 9820, and 9911)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 48:I.9717 and 9911, and to adopt 9820 as authorized by R.S. 36:254 and 40:2009.1-2116.4. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repealed existing nursing home licensing regulations and established new licensing regulations as a result of tremendous expansion of federal regulations governing long term care and to assure that a high quality of care was provided to nursing home residents (*Louisiana Register*, Volume 24, Number 1). The bureau now proposes to amend the provisions governing minimum licensing standards for nursing homes to clarify the requirements for licensed administrators of all nursing homes, remove the requirement that nursing homes have whirlpool tubs and establish guidelines for the use of feeding assistants in nursing homes.

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 48

#### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 3. Licensing

#### Chapter 97. Nursing Homes

#### Subchapter A. General Provisions

#### §9717. Administration

A. Facility Administrator. All facilities are required to have full-time administrators. Full-time administrators are persons who are licensed, currently registered and engaged in the day-to-day management of the facility. The administrator's duties shall conform to the following standards.

1. Administrative/management activities shall be the major function of the required duties.

2. An adequate and reasonable amount of time shall be spent on the premises of the facility. The administrative activities must be the major function of the person performing the duties.

3. A major portion of the time, described above, shall be spent during the normal work week of the facility's personnel.

B. A full-time employee functioning in an administrative capacity shall be authorized in writing to act in the administrator's behalf when he/she is absent or functioning as a full-time administrator for two facilities.

#### C. Administrator Responsibilities and Restrictions

1. No individual may function as a full-time administrator for more than two nursing facilities. When a full-time administrator is engaged in the management of two nursing facilities, the facilities' sizes and proximity to one another have considerable bearing on the administrator's ability to adequately manage the affairs of both nursing facilities.

a. The response time to either facility shall be no longer than one hour.

b. If an administrator serves two facilities, he/she must spend 20 hours per week at each facility.

2. The administrator or his designee is responsible, in writing, for the execution of all policies and procedures.

3. If a change occurs in the individual who is the administrator of a nursing facility, notice shall be provided to the Bureau of Health Services Financing, Health Standards Section by the facility administrator or, in the absence of an administrator, by the governing body of the facility at the time the change occurs.

a. Notice shall include the identity of all individuals involved and the specific changes which have occurred.

b. Failure to provide written notice by certified mail within 30 calendar days from the date a change occurs will result in a Class C civil money penalty.

c. The department shall allow nursing facilities 30 days from the date of the change in the position to fill the resulting vacancy in the administrator position. There shall be no waiver provisions for this position.

d. The governing body of the facility shall appoint a facility designee charged with the general administration of the facility in the absence of a licensed administrator.

e. Failure to fill a vacancy or to notify the department in writing by the thirty-first day of vacancy that the administrator position has been filled shall result in a Class C civil money penalty.

D. Assistant Administrator. A nursing facility with a licensed bed capacity of 161 or more beds must employ an assistant administrator. An assistant administrator shall be a full-time employee and function in an administrative capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:47 (January 1998), amended LR 32:

#### Chapter 98. Nursing Homes

#### Subchapter C. Dietetic Services

#### §9820. Feeding Assistants

A. Prior to assisting nursing facility residents with feeding, the assistant must have successfully completed the state-approved training course published by the American Health Care Association, *Assisted Dining: The Role and Skills of Feeding Assistants*.

1. Licensed personnel qualified to teach the course include:

- a. registered nurses;
- b. licensed practical nurses;
- c. dietitians; and
- d. speech therapists.

2. The competency of feeding assistants must be evaluated by course instructors and supervisory nurses.

3. If feeding assistants transfer between facilities, the receiving facility must assure competency.

B. Feeding assistants must be registered on the Direct Service Worker Registry (DSW) unless they are volunteers.

1. Volunteers must complete the training course except in cases where a family member or significant other is feeding the resident.

2. If verification of completion of training cannot be obtained from the DSW Registry, the training course must be taken.

C. The clinical decision as to which residents are fed by a feeding assistant must be made by a registered nurse (RN) or licensed practical nurse (LPN). It must be based upon the individual nurse's assessment and the resident's latest assessment and plan of care.

1. A physician or speech therapist may override the nurse's decision, if in their professional opinion, it would be contraindicated.

D. The use of a feeding assistant must be noted on the plan of care.

E. There must be documentation to show that the residents approved to be fed by feeding assistants have no complicated feeding problems.

1. Feeding assistants may not feed residents who have complicated feeding problems such as difficulty swallowing, recurrent lung aspirations and tube or IV feedings.

F. There must be documentation of on-going assessment by nursing staff to assure that any complications that develop are identified and addressed promptly.

G. A feeding assistant must work under the supervision of a RN or LPN and the resident's clinical record must contain entries made by the supervisory RN or LPN describing services provided by the feeding assistant.

H. Facilities may use feeding assistants at mealtimes or snack times, whenever the facility can provide the necessary supervision.

1. A feeding assistant may feed residents in the dining room or another congregate area.

I. Facilities may use their existing staff to feed residents as long as each staff member successfully completes the state-approved training course.

J. Facilities must maintain a record of all individuals used as feeding assistants who have successfully completed the training course.

K. Residents have the right to refuse to be fed by a feeding assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

### Chapter 99. Nursing Homes

#### Subchapter A. Physical Environment

##### §9911. Toilet, Hand Washing and Bathing Facilities

A. Each floor occupied by residents shall be provided with a toilet and lavatory, and either a bathtub or shower.

B. ...

C. In nursing homes built prior to August 26, 1958, the following ratio shall be provided (whenever calculations

include any fraction of a fixture, the next higher whole number of fixtures shall be installed).

Lavatories	1:10 beds
Toilets	1:10 beds
Showers or tubs	1:15 beds

D. In nursing homes built after August 26, 1958, the following ratio shall be provided (whenever calculations include any fraction of a fixture, the next higher whole number of fixtures shall be installed).

Lavatories	One per bedroom or immediately adjacent thereto
Toilets	1:8 beds
Showers or tubs	1:10 beds

E. - F. ...

G. Separate toilet and lavatory facilities for use by employees shall be provided. Separate bathtubs or showers shall be provided for employees who live on the premises.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:63 (January 1998), amended LR 32:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, April 27, 2006 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: **Nursing Facilities Minimum Licensing Standards**

#### 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 05-06. It is anticipated that \$612 (\$306 SGF and \$306 FED) will be expended in FY 05-06 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 05-06. It is

anticipated that \$306 will be expended in FY 05-06 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 amend the provisions governing minimum licensing standards for nursing facilities to clarify the requirements for licensed administrators (approximately 2,250) of all nursing homes and remove the requirement that nursing homes have whirlpool tubs. This proposed rule will also establish guidelines for the use of feeding assistants in nursing facilities (approximately 284). If a nursing facility chooses to use feeding assistants, the costs will be borne by the facility and could cost approximately \$300 per feeding assistant for training and certification. It is undeterminable how many facilities will choose this option at this time.

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.

Jerry Phillips  
Director  
0603#080

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Natural Resources  
Office of Mineral Resources**

**Dry Hole Credit Program (LAC 43:V.Chapter 4)**

Under the authority of R.S. 30:150 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 adopt LAC 43:V.401 et seq.

The purpose of this regulation is to detail the procedure to be utilized to administer the Dry Hole Credit Program allowed for by R.S. 30:150 et seq., as enacted by Act 298 of the 2005 Regular Session of the Legislature.

**Title 43**

**NATURAL RESOURCES**

**Part V. Office of Mineral Resources**

**Chapter 4. Dry Hole Credit Program**

**§401. Definitions**

A. Unless the context requires otherwise, the terms set forth hereinafter shall have the following respective meanings, to-wit:

*Coastal Zone*—that portion of the land and water bottoms of the state of Louisiana, including the Gulf of Mexico, set forth and defined as the coastal zone in R.S. 49:214.24.

*Dry Hole*—a completed well which is not productive of oil or gas in any sand and classified as a Status 29 well by the Office of Conservation.

*Dry Hole Credit*—the lesser of the value of 5 billion cubic feet of natural gas production (or the natural gas equivalent of condensate production) multiplied by the spot market price per cubic foot of natural gas at the Henry Hub (or any other gas gathering and marketing facility recognized by OMR from which spot market sales of gas occur, if Henry Hub is not available for comparison pricing),

valued at the time application is made for certification as a royalty relief receiving well, or 50 percent of the dry hole well cost of the dry hole credit well which serves as the basis for the dry hole credit sought. The value of dry hole credit may be further modified if the dry hole credit well was drilled as a unit well in a unit which did not contain the entirety of the state mineral lease on which it was drilled or contains lands and leases in addition to that on which the dry hole credit well was drilled.

*Dry Hole Credit Well*—any new well drilled for purposes of developing and producing oil or gas mineral resources which:

a. is spudded after July, 1, 2005, but completed before June 30, 2009 for the purpose of certification; and

b. is drilled on a state mineral lease located within the coastal zone of Louisiana; and

c. is drilled to a depth greater than 19,999 feet SSTVD; and

d. is logged by suitable geophysical methods; and

e. is verified by OMR as a dry hole by being classified as a Status 29 well by the Office of Conservation; and

f. is not "commercially productive" by being completely plugged and abandoned according to rules promulgated by the Office of Conservation as evidenced by a copy of the well abandonment certificate duly signed by the appropriate authority in the Office of Conservation; and

g. has had copies of any and all well information derived from drilling same, including geophysical and geological, surrendered to OMR to be held as a public record; and

h. has been certified by the Office of Mineral Resources as a dry hole credit well.

*Dry Hole Well Cost*—a detailed, itemized list of actual costs (not AFE or estimated costs) of drilling the dry hole credit well from well site preparation (including such things as preparing board road, anchoring pads, dredging, permitting and similar preparatory work, but not including legal fees, lease related costs, hearing costs, title searches and similar types of cost), equipment and materials actually utilized in drilling the dry hole credit well, to plugging and abandoning the well according to rules promulgated by the Office of Conservation. All actual costs claimed shall conform generally to costs recognized and accepted as costs attributable to drilling a well only by the Council of Petroleum Accountants Societies (COPAS).

*OMR*—the Office of Mineral Resources, an office of the Department of Natural Resources and the statutorily designated staff of the Louisiana State Mineral Board.

*Pre-Qualifying Well*—any permitted, but undrilled, well for which pre-qualifying certification is sought and which meets the following criteria, to-wit:

a. application is made by completely and accurately filling out the pre-qualifying form provided by OMR; and

b. the proposed well is permitted to be drilled on a state mineral lease located in the coastal zone of Louisiana; and

c. the proposed well is permitted to spud subsequent to certification by OMR of the dry hole credit well which applicant seeks to use as the basis for the dry hole credit offset; and

d. applicant is the proper party granted authority to utilize the dry hole credit derived from the dry hole credit well, or his successor or assignee; and

e. the proposed well has been permitted by the Office of Conservation to be drilled to a depth reasonably calculated to produce hydrocarbons from sands below 19,999 feet SSTVD; and

f. the proposed well is permitted to spud after July 1, 2005 and completed before June 30, 2009; and

g. applicant has obtained from the Office of Coastal Restoration and Management a letter setting forth the minimum mitigation to be required from the applicant if the well is drilled and completed as a hydrocarbon producer, which mitigation shall amount to not less than 125 percent of the wetlands impact of the pre-qualifying well if it becomes a royalty relief receiving well together with applicants agreement to fulfill said mitigation obligation; and

h. is certified as a pre-qualifying well by OMR.

*Royalty Relief Receiving Well*—any new well drilled for purposes of developing and producing oil or gas mineral resources which:

a. is spudded after July 1, 2005, but completed before June 30, 2009 for the purpose of certification; and

b. is drilled after certification of the dry hole credit well sought to be utilized for the dry hole credit; and

c. is drilled by the person or entity which has earned the dry hole credit for the dry hole credit well sought to be utilized, or his successor or assignee; and

d. is drilled on a state mineral lease located within the coastal zone of Louisiana; and

e. is drilled and completed as an oil or gas well, as so designated by the Office of Conservation, capable of producing from hydrocarbon bearing sands below 19,999 feet SSTVD; and

f. has been previously certified as a pre-qualifying well by OMR; and

g. does not utilize or attempt to utilize any other state tax credit (other than an income tax credit) or royalty modification of any kind to modify royalty paid to the state on production therefrom; and

h. has, from being qualified as a pre-qualifying well, a letter from the Office of Coastal Restoration and Management setting forth the mitigation required from the applicant, which shall amount to not less than 125 percent of the wetlands impact of the royalty relief receiving well, together with the agreement by the applicant to perform said mitigation; and

i. has been certified as a royalty relief receiving well by OMR.

*SMB*—the Louisiana State Mineral Board created by Act 93 of the 1936 Regular Session of the Louisiana Legislature.

*True Vertical Depth*—the actual vertical depth sub sea (below mean sea level) and referred to as SSTVD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:150 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 32:

#### **§403. Application for Status as a Dry Hole Credit Well**

A. Only one person or entity shall be able to earn a dry hole credit for each dry hole credit well. The person or entity drilling a dry hole, having the right to apply (whether as the

sole working interest party or by agreement between all working interest parties) and desiring to qualify said dry hole as a dry hole credit well, shall apply for status as a dry hole credit well by completely and accurately filling out the provided form and sending same to OMR at 617 North Third Street, LaSalle Building, Eighth Floor, P.O. Box 2827, Baton Rouge, LA 70821-2827, accompanied by the following, to-wit:

1. the 1 inch and 5 inch electrical survey; and

2. any side wall cores, logs or well surveys run on the well; and

3. a copy of that part of the daily drilling report showing the spud date and location and the last part showing drilling cessation, including pulling the drill stem out with the date thereof; and

4. a well survey verifying SSTVD and any deviation from vertical taken by the drill pipe; and

5. a copy of the well history report filed with the commissioner of conservation; and

6. a copy of the well abandonment certificate signed by the appropriate authority from the Office of Conservation showing that the well has been plugged and abandoned in conformity with the rules and regulations promulgated by the Office of Conservation; and

7. copies of any other data or information derived from the drilling of the dry hole which may reflect upon its status; and

8. a statement of dry hole cost (which shall be subject to audit by, and at the sole discretion of, the staff of OMR); and

9. written proof (which may include the AFE of the dry hole well showing the applicant to be the sole working interest party or, if more than one working interest owner, a written, notarized agreement, signed by all working interest owners as shown on the AFE, stating that applicant is the authorized party to receive the dry hole credit) that the applicant is the proper person to earn the dry hole credit if the well is certified as a dry hole credit well.

B.1. If the state mineral lease on which the certified dry hole credit well is drilled is part of a unit, either a voluntary unit or a commissioner's unit, which either:

a. contains only a portion of the said state mineral lease; or

b. if the unit contains the entirety of the lease on which dry hole credit well is drilled, but additional leases as well;

2. then the value of the dry hole credit allowed using that said dry hole credit well as its basis, whether the value of the dry hole credit is computed by utilizing the dry hole cost of that said dry hole credit well or by computing the value of 5 billion cubic feet of natural gas (or its equivalent in condensate), shall be reduced by multiplying the total dry hole credit by a fraction comprised of the proportion of the acreage of the state mineral lease on which the dry hole credit well is drilled, allocated in the unit to the total acreage of the unit.

C. All applicants must be duly registered with OMR pursuant to the requirements of Act 449 of the 2005 Regular Session of the Louisiana Legislature.

D. All data given to OMR on all dry hole credit wells certified pursuant to this rule shall be kept in a database at OMR and deemed a public record.

E. After all data submitted has been reviewed by the staff of OMR and the dry hole proposed by the applicant is determined to meet the criteria for a dry hole credit well, OMR shall issue a letter under the signature of the assistant secretary of OMR to the applicant certifying that the submitted dry hole has been deemed a dry hole credit well, and further, containing the serial number of the dry hole credit well, the applicant's name as the party or entity to whom the dry hole credit will be issued, that portion of the accepted total dry hole cost of the dry hole credit well which may be applied against royalty from a royalty relief receiving well (or fraction thereof if the dry hole credit well was a unit well containing leases other than that on which the dry hole credit well was located) and the spud, and plugging and abandonment dates of the dry hole credit well.

F. A report shall be made by OMR to the SMB at its next called meeting following the issuance of the dry hole credit letter giving such information as shall be required by the SMB at the time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:150 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 32:

#### **§405. Assignment of a Dry Hole Credit**

A. The party named on the certification from OMR of a dry hole credit well as the party to whom the dry hole credit is issued may assign the entirety of the dry hole credit to another party or entity, but the dry hole credit shall not be divided in any assignment, either by assigning fractional interests or by assigning the entirety of the interest to more than one assignee.

B. Any assignment of a dry hole credit shall be in the form of an instrument signed by both assignor and assignee, duly witnessed and properly notarized, containing, in addition to language of transference of the dry hole credit, the complete legal names of the assignor and assignee, their respective business domiciliary addresses and correct, up-to-date telephone numbers, facsimile number and email address (if any), the serial number of the dry hole credit well which forms the basis of the dry hole credit together with the value of the dry hole credit being transferred, as both are set forth on the certification of dry hole credit well status belonging to the assignor. The original certification of dry hole credit well status shall be attached to and be a part of the assignment.

C. No assignment or transfer of a dry hole credit shall be valid unless approved by the SMB. The assignment or transfer of the dry hole credit shall utilize the same procedure as required for the assignment or transfer relating to minerals or mineral rights required under R.S. 30:128(A).

D. An assignee of a dry hole credit must be registered with OMR as a prospective lease holder in full compliance with Act 449 of the 2005 Regular Session of the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:150 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 32:

#### **§407. Application for Status as a Pre-Qualifying Well**

A. A party desiring to apply a dry hole credit from a certified dry hole credit well to a proposed new well shall, prior to drilling the new well, complete in full an application form provided by, to be returned to, OMR at 617 North

Third Street, LaSalle Building, Eighth Floor, P.O. Box 2827, Baton Rouge, LA 70821-2827, requesting that the proposed new well be certified as a pre-qualifying well. Together with, and accompanying, the completed application form, the applicant shall provide the OMR staff with the following, to-wit:

1. a drilling permit from the Office of Conservation which indicates that the proposed pre-qualifying well will be spudded after July 1, 2005, and prior to June 30, 2009, and drilled to a depth reasonably calculated to secure hydrocarbon production below 19,999 feet SSTVD; and

2. written proof that the proposed pre-qualifying well is going to be drilled (bottom-holed) on a state mineral lease located in the coastal zone of Louisiana, either as a lease well or a unit well (for which only a portion of the total dry hole credit amount shall apply, as obtained by multiplying the dry hole calculated by a fraction which is equal to the proportion of the state mineral lease acreage on which the proposed pre-qualifying well is drilled as allocated within the unit to the total acreage of the unit); and

3. written proof in the form of an affidavit that all necessary permits and all rights-of-way have been acquired, that there are no impediments, including management approval, remaining to the drilling of the well and that the Office of Coastal Restoration and Management has been notified of the intended well in order to review the potential wetlands impact; and

4. the written certification of dry hole credit well status issued by OMR or an assignment of dry hole credit interest previously approved by the SMB showing that the applicant is the proper party to apply for pre-qualification status; and

5. written evidence from the Office of Coastal Restoration and Management, which shall have been notified of the application for pre-qualifying well status by OMR, obtained by the applicant, setting forth the estimated wetlands impact of the proposed new well together with an agreement by the applicant to mitigate not less than 125 percent of the wetlands impact, or more if required, in a manner approved by the Office of Coastal Restoration and Management.

B. No more than 20 active pre-qualifying wells and existing royalty relief receiving wells, in the aggregate, shall be certified by OMR at any one time. If a party or entity having a dry hole credit from a certified dry hole credit well proposes to drill a new well and applies for status of the new well as a pre-qualifying well, and there are already 20 active pre-qualifying wells and/or royalty relief receiving wells, in the aggregate, then that applicant shall be placed on a waiting list, in the order of date and time of application. Thereafter, if any active pre-qualifying wells become inactive, new applicants on the waiting list, in the order of their listing, may apply for status of a new well to be drilled as a pre-qualifying well provided that no pre-qualifying well status may be granted on or after June 30, 2009.

C. Upon applicant's furnishing the information hereinabove set forth, and if there are less than 20 active pre-qualifying wells and/or existing royalty relief receiving wells, in the aggregate, already certified, OMR may issue a letter certifying that:

1. as of the effective date set forth in the letter, the new proposed well, as designated by the serial number

issued by the Office of Conservation on the drilling permit, is deemed an active pre-qualifying well; and

2. the pre-qualifying well status shall remain active only until:

i. the proposed new well is drilled, logged and deemed productive from hydrocarbon bearing sands located below 19,999 feet SSTVD or classified as a Status 29 dry hole by the Office of Conservation, or down hole drilling operations cease for a period in excess of six months without a log being run which indicates the well will be productive from hydrocarbon bearing sands below 19,999 feet SSTVD; or

ii. the expiration of the drilling permit used to obtain pre-qualifying status, whichever is earlier, but under no circumstances on or after June 30, 2009; and

3. the serial number of the dry hole credit well providing the basis for the dry hole credit and the amount of dry hole well cost (computed from the letter of certification of dry hole credit well status) which may be used to offset royalty payments if the pre-qualifying well becomes a royalty relief receiving well; and

4. reference, as an attachment, to the wetlands impact mitigation letter and agreement between the applicant and the Office of Coastal Restoration and Management reiterating applicant's agreement to mitigate found by the Office of Coastal Restoration and Management, but not less than 125 percent of any actual wetlands impact, upon drilling the pre-qualifying well.

D. Under no circumstances shall a well permitted as a re-entry into an existing well bore, whether for deepening, sidetracking or otherwise, qualify for certification as a pre-qualifying well.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:150 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 32:

#### **§409. Application for Status as a Royalty Relief Receiving Well**

A. Only a pre-qualifying well may become a royalty relief receiving well.

B. A party drilling a pre-qualifying well which is logged and deemed productive from hydrocarbon bearing sands below 19,999 feet SSTVD as a producing well may request certification as a royalty relief receiving well by completing the appropriate form provided by, and returning same to OMR at P.O. Box 2827, 617 North Third Street, LaSalle Building, Eighth Floor, Baton Rouge, LA 70821-2827, accompanied by the following documentation, to-wit:

1. written proof, including appropriate portions of the drilling report showing spud location and date, and bottom hole location, date and SSTVD; the completion report and log showing SSTVD of all perforations which contribute to the present productivity; plats showing the state lease on which the well is drilled; unit plats, Office of Conservation orders or voluntary unit agreements, if drilled within a unit, showing unit allocation of acreage of the state lease on which well is drilled in proportion to total unit acreage; and data from well tests reasonably calculated to test for productivity in all completions below 19,999 feet SSTVD, indicating that:

a. the well was spudded between July 1, 2005 and completed before June 30, 2009; and

b. the well is completed as productive from hydrocarbon bearing sands below 19,999 feet SSTVD as well as the percentage of perforations below 19,999 feet SSTVD; and

c. the well is drilled on a state mineral lease in the coastal zone of Louisiana; and

d. if the well is drilled in a unit, the proportion of state mineral lease acreage on which the well is drilled as allocated in the unit to the total acreage of the unit; and

2. the pre-qualification well certification issued by OMR showing the serial number of the pre-qualifying well, the party receiving the pre-qualifying well status and the sum of money attributed to the dry hole well cost which may be used to offset royalty payments to the state from the royalty relief receiving well; all of which indicates that the well for which royalty relief receiving well status is sought has been pre-qualified, that the applicant for royalty relief receiving well status is the same party or entity to whom the pre-qualifying well certification was given and, if applicable, the amount of dry hole well cost which may be applied to offset royalty payments to the state on production from the royalty relief receiving well, if certified. All information obtained by OMR relating to qualifying a drilled and completed well as a royalty relief receiving well shall be kept in a database at OMR as a public record.

C. If applicant's well meets all of the criteria set forth in Act 298 of the 2005 Regular Session of the Louisiana Legislature as necessary to earn a dry hole credit offset, as evidenced by the information furnished in Subsection B above, OMR shall:

1. determine the total amount of dry hole credit which may be used to offset royalty payments to the state if the royalty relief receiving well status is granted by:

a. ascertaining the Platts spot market price per cubic foot of natural gas at the Henry Hub (or any other gas gathering and marketing facility recognized by OMR from which spot market sales of gas occur, if Henry Hub is not available for comparison pricing) and multiply that price by 5 billion cubic feet of gas to arrive at a sum of money; then

b. comparing the sum of money obtained in Subparagraph a herein to that portion of the dry hole well cost which may be used as a dry hole credit as set forth on the pre-qualifying well certification; and

c. determining the lesser of the two amounts as the total dry hole credit which may be used; and

2. if the royalty relief receiving well is a unit well, ascertain the proportion of acreage allocated to the state lease on which the pre-qualifying well was actually drilled (bottom holed) within the unit to the entire acreage of the unit and multiply that proportion by the total value of the dry hole credit as previously determined in Paragraph 1 hereinabove to obtain the revised dry hole credit allowed to offset royalty payments to the state from unit production allocated to the state lease; and

3. divide the value of the dry hole credit determined in Paragraphs 1 and 2 hereinabove by 36 to yield the maximum monthly value of dry hole credit which may be used by the royalty payer to offset monthly royalty payments to the state; and

4. notify the Office of Conservation that it is in the process of qualifying a newly drilled and completed well as a royalty relief receiving well and have the applicant request



that said Office of Conservation issue a new, unique LUW code for production purposes to the well serial number of the pre-qualifying well sought to be certified as a royalty relief receiving well (no letter certifying status as a royalty relief receiving well will be issued until the Office of Conservation has issued the new, unique LUW code as requested); and

5. issue a letter certifying the previously certified pre-qualifying well, by serial number, as a royalty relief receiving well, which shall also contain the new, unique LUW code issued to that well by the Office of Conservation, the total monthly amount of dry hole credit, as calculated over a 36 month period, which may be used to offset any monthly royalty payments due the state on production from, or attributable to, the royalty relief receiving well, with the proviso that under no circumstances shall the value of monthly royalty paid to and received by the state on production from the royalty relief receiving well amount to less than one-eighth of the total value received for the sale of monthly production, less other lease allowable deductions, allocated to the lease on which the royalty relief receiving well is located.

D. Certification as a royalty relief receiving well shall attach to, and only to, the former pre-qualifying well so certified, regardless of whether interests in the said royalty relief receiving well or the lease on which the said well is located are transferred subsequent to the certification. The dry hole credit offset amount specified in the certification shall be available only to the royalty payer on royalty due the state on production from the said royalty relief receiving well.

E. The decimal percentage of production due the state which yields the value from which the dry hole credit may be deducted by the royalty payer shall be the royalty specified in the state mineral lease on which the royalty relief receiving well is located or, if a unit well, the decimal portion allocated to that lease within the unit. However, at no time shall the monthly royalty, in value, paid to the state, after deducting the maximum allowed value of the monthly dry hole credit offset, amount to less than one-eighth of the total value received for the sale of monthly production, less other lease allowable deductions, allocated to the lease on which the royalty relief receiving well is located, as mandated in R.S. 30:127 and Act 298 of the 2005 Regular Session of the Louisiana Legislature. If the royalty payer on production from the royalty relief receiving well determines that, by deducting the maximum monthly value of the dry hole credit offset allowed, the value of the monthly royalty payment to the state would amount to less than the value of a one-eighth royalty, then the royalty payer shall deduct only that much of the monthly value of the dry hole credit offset allowed as will yield a royalty payment to the state of the value of a one-eighth royalty.

F. Applicant must designate by registered business name, domiciliary address, current telephone number, facsimile number (if one) and e-mail address, the royalty payer which would be authorized by OMR to apply the extension of dry hole credit royalty relief beyond the 36 month period initially granted by OMR.

G. Only one dry hole credit well may form the basis for a dry hole credit to be used to offset royalty payments to the state from only one royalty relief receiving well, and no more than 20 dry hole credit wells, in total, may be utilized

as a basis to offset royalty payments to the state. The royalty relief dry hole credit shall be deemed issued when the pre-qualifying well has been certified as a royalty relief receiving well and its utilization to offset royalty payable to the state must begin within four years of the date of said certification.

H. If the pre-qualifying well is drilled and is a dry hole, the applicant may initiate the process to have that well qualified as a dry hole credit well.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:150 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 32:

#### **§411 Extending the Dry Hole Credit Offset beyond Thirty-Six Months**

A. If the payer of royalty on production from, or allocated to, a certified royalty relief receiving well is not able to utilize the full amount of the dry hole credit determined as applicable to that royalty relief receiving well to offset royalty payments to the state within the 36 month period from date of first production, a request, in writing, by the party or entity entitled to the dry hole credit to OMR to extend the period of royalty offset beyond the 36 month period may be made. The written request must identify, by LUW code and serial number, the certified royalty relief receiving well on which the extension of royalty offset is being requested, the total amount of dry hole credit utilized to offset royalty payments to the state in the 36 month period and the level of production of the royalty relief receiving well at the time of the request. The written request must be accompanied by the letter certifying the royalty relief receiving well status.

B. Should OMR decide to grant the extension, it shall issue a letter authorizing the full monthly dry hole credit offset on royalty payments to the state, which was previously granted for the 36 month period, to continue for an extension period not to exceed 24 additional months or until the full dry hole credit value is utilized, whichever is earlier. Under no circumstances shall the value of monthly royalty paid to the state during the extended 24 month period fall below the value of a one-eighth royalty, as specified in R.S. 30:127, nor shall the additional dry hole credit period exceed a total of 60 months or remain in force beyond June 30, 2013, whichever is earlier. Any dry hole credit offset not utilized within 60 months from date of first production, or before June 30, 2013, shall be lost to the payer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:150 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 32:

#### **§413. Termination of Dry Hole Credit Offset**

A. Should the total dry hole credit issued to a royalty relief receiving well be utilized in full to offset royalty payments to the state within 36 months from date of first production (or within the additional 24 month extension if granted), or a total of 60 months elapse from date of first production from the royalty relief receiving well without the total dry hole credit being utilized, or June 30, 2013 arrive, in either case, OMR shall issue a letter notifying the payer that, as of a certain date, no further dry hole credit will be available for offset against royalty paid to the state from production from that royalty relief receiving well. Upon issuance of that letter, OMR shall note the serial number and

LUW code of that royalty relief receiving well in its database as one of only 20 such royalty relief receiving wells to be allowed.

B.1.a. Should production cease in whole or in part from productive sands below 19,999 feet in a royalty relief receiving well due to either:

i. a plug back from the formerly producing, but depleted sand below 19,999 feet and perforation into and production from sands above 19,999 feet in the same well; or

ii. perforations into and production from sands above 19,999 feet commingled with production from sands below 19,999 feet in the same well;

b. the dry hole credit offset allowed against production from that well shall be terminated in whole or in part in proportion to the percentage of production derived from sands above 19,999 feet as determined by the ratio of the rate of flow from perforations above and below 19,999 feet.

2. If production from sands below 19,999 feet remains separate from production from sands above 19,999 feet in the same royalty relief receiving well, the dry hole credit offset may be used against the production from below 19,999 feet only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:150 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 32:

#### Family Impact Statement

The proposed adoption of LAC 43:V.401 et seq., regarding the Dry Hole Credit Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. The implementation of this proposed Rule will have no known or foreseeable effect on:

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

Interested parties may submit written comments relative to the proposed Rule until 4 p.m., Thursday, April 25, 2006, to Monique M. Edwards, Executive Counsel, Office of the Secretary, Post Office Box 94396, 617 North Third Street, LaSalle Building, Twelfth Floor, Baton Rouge, LA 70804-9396.

Scott A. Angelle  
Secretary

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

##### RULE TITLE: Dry Hole Credit Program

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

The Department of Natural Resources, Office of Mineral Resources will require three additional positions (auditor, engineer, geologist) to certify, monitor, and audit the

participating wells. The costs of these personnel will be some \$205,000 in the first full year. An additional one-time \$50,000 will be utilized to modify the Department's royalty tracking system to account for this new relief, and a small amount of funds will be used for developing the rules and regulations necessary to implement the program. The Office of Mineral Resources was appropriated sufficient funds to implement the program. However, that funding and those three positions were eliminated during current year budget reductions. Therefore, these duties and functions will be absorbed utilizing existing funding and staff.

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

This program is expected to be revenue neutral in the first five years and then generate positive net revenue gain to the state in years 6 through 25. Participation in the program is limited to a total of twenty wells drilled by June 30, 2009 in the coastal zone on which the state will receive production royalties. Drillers must drill dry holes in the coastal zone before any benefit is paid out by the state. The success rate for this type of discovery well is no less than 20%, thereby producing no less than 4 successful wells, each of which will need 10 additional wells to develop the field. Therefore, the statistical maximum of 16 dry holes will be offset by 44 successful wells, only 16 of which will receive the dry hole production credit.

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

The costs and/or economic benefits to others cannot be quantified. The program should have a positive effect on oil and gas exploration activity in the coastal zone and at the depths required by the program.

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

The effect on competition and employment cannot be quantified. If the program is successful in encouraging exploration, increased employment in the oil and gas sector will occur to the extent this targeting drilling activity does not divert activity from other areas of the state.

Robert D. Harper  
Undersecretary  
0603#022

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

#### NOTICE OF INTENT

#### Department of Social Services Office of Family Support

TANF Initiatives—Temporary Emergency Disaster Assistance Program (TEDAP)(LAC 67:III.5583)

In accordance with R.S.49: 950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to adopt §5583, Temporary Emergency Disaster Assistance Program (TEDAP) pursuant to the TANF Emergency Response and Recovery Act of 2005.

The agency has provided funding through Memoranda of Understanding and contracts, to several state agencies and other entities for implementation and administration of the TANF Initiative programs which provide services to families with minor children in order to meet one of the four TANF goals. In an effort to meet the TANF goals to end dependence of needy families by promoting job preparation, work, and marriage, and to encourage the formation and maintenance of two-parent families, the agency proposes to

adopt the Temporary Emergency Disaster Assistance Program (TEDAP) as a new TANF Initiative. Hurricanes Katrina and Rita displaced an estimated 350,000 individuals within the State of Louisiana who have urgent, unmet needs for basic human services as well as for intermediate and long-term assistance in restoring their lives and communities. TEDAP intends to provide disaster emergency services such as living accommodations, emergency cash, transportation, job skills development and child care vouchers to a portion of these needy families with dependent children or pregnant women who were displaced because of the disasters.

This Rule was effected by a Declaration of Emergency signed January 10, 2006, and published in the February issue of the *Louisiana Register*.

**Title 67  
SOCIAL SERVICES**

**Part III. Family Support**

**Subpart 15. Temporary Assistance to Needy Families  
(TANF) Initiatives**

**Chapter 55. TANF Initiatives**

**§5583. Temporary Emergency Disaster Assistance  
Program**

A. Effective October 26, 2005, the agency will enter into contracts to provide disaster emergency services to needy families with dependent children or pregnant women who are displaced because of disasters. The program will provide nonrecurring, short-term benefits or services, not to exceed four months.

B. These services meet the TANF goals to end dependence of needy families by promoting job preparation, work, and marriage, and to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is limited to needy families with minor dependent children, or minor dependent children living with caretaker relatives within the fifth degree of relationship, or pregnant women:

1. who are displaced citizens of parishes or counties for which a major disaster has been declared under the Robert T. Stafford Disaster Relief and Assistance Act; and

2. whose income is at or below 200 percent of the federal poverty level or who are categorically eligible because a member of the family receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), or Free or Reduced School Lunch.

D. The secretary may establish criteria whereby needy families are deemed to be needy based on their statement, circumstances, or inability to access resources and may also relax verification requirements for other eligibility factors.

E. Services are considered non-assistance by the agency.

F. The program shall be effective for the parishes or counties and time frames as designated by the Secretary.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, TANF Emergency Response and Recovery Act of 2005.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:

**Family Impact Statement**

1. What effect will this Rule have on the stability of the family? The stability of the family should be positively impacted by this Rule as the program will provide nonrecurring, short-term benefits and services such as living accommodations, emergency cash, transportation, job skills development and child care vouchers to persons who were displaced by Hurricanes Katrina and Rita.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

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

4. What effect will this have on family earnings and family budget? The family's earning and budget could be positively impacted by this Rule. Job skills development could result in better employment opportunities for those displaced persons participating in the program. Better employment opportunities could result in higher paying jobs and an increase in income.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no impact on the behavior and personal responsibility of the children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

All interested persons may submit written comments through April 27, 2006, to Adren O. Wilson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA, 70804-9065.

A public hearing on the proposed Rule will be held on April 27, 2006, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Ann S. Williamson  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: TANF Initiatives—Temporary  
Emergency Disaster Assistance Program**

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

The proposed rule will result in an implementation cost of \$32,794,397 for the Temporary Emergency disaster Assistance Program (TEDAP). An additional \$544 is needed for the

publication of rulemaking. The total estimated implementation cost is \$32,794,941. This increase is 100 percent federally funded with monies from Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant.

The agency will enter into contract with the Louisiana Family Recovery Corps (LFRC), a non-profit entity to administer and provide services for the program. The LFRC is expected to serve approximately 6,918 families or 21,445 individuals (based on an estimated average of 3.1 persons per family). The number of families to be served was computed as follows: The total subcontractor costs for field operations, \$9,834,877, minus \$150,000 set aside for Family Liaison training equals \$9,684,877. This dollar amount was divided by the subcontracted rate of \$1400 per family unit to derive the target of 6,918 families. Additional program costs include \$3,274,631 for the contractor's administrative costs and \$19,684,889 for Family Emergency Assistance which includes living accommodations, emergency cash, transportation, job skills development, child care vouchers, outpatient substance abuse and mental health services.

There are no savings to state or local governmental units.

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

Implementation of this rule will have no effect on state or local revenue collections.

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

There are no anticipated costs to any persons or non-governmental groups as a result of this rule. Those persons displaced by the hurricanes that are referred and become involved in job training and skills development, could realize better employment opportunities. Services being offered by the LFRC that will be of economic benefit to the clients include living accommodations, emergency cash, transportation, child care vouchers, outpatient substance abuse and mental health treatment, job training and skills development.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule could permit increased training opportunities for persons displaced by the hurricanes. It is anticipated that a possible result of the training would be the ability of these participants to attain higher paying jobs and to retain those jobs more successfully. This program has the potential to increase the pool of skilled workers in the state. Additionally, providing support services in the form of child care vouchers and transportation assistance could enhance the client's employment opportunities as well.

Adren O. Wilson  
Assistant Secretary  
0603#049

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Transportation and Development  
Office of Weights and Standards**

**Oversize and Overweight Permit Regulations  
(LAC 73:I.723)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development intends to amend a Rule entitled "Oversize and Overweight Permit Laws and Regulations", in accordance with R. S. 32:380-389.

**Title 73  
WEIGHTS, MEASURES AND STANDARDS**

**Part I. Weights and Standards**

**Chapter 7. Oversize and Overweight Permit Laws  
and Regulations**

**§723. Types of Permits**

A. - S.4. ...

T. Curfews, Night, Inclement Weather, and Holiday Movement

T.1. ...

2. Hours of operation are to be sunrise to sunset, as determined by the National Weather Service.

T.3. - Z.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32.2, et seq. and R. S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights and Standards, LR 22:120 (February 1996), LR 32:

**Family Impact Statement**

The proposed adoption of this Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. the implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family;

2. the implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children;

3. the implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family;

4. the implementation of this proposed Rule will have no known or foreseeable effect on family earnings and family budget;

5. the implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children;

6. the implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this Notice of Intent to Sherryl J. Tucker, Senior Attorney, Department of Transportation and Development, P. O. Box 94245, Baton Rouge, LA 70804-9245, Telephone (225) 237-1359.

J. Michael Bridges, P.E.  
Undersecretary

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

**RULE TITLE: Oversize and Overweight  
Permit Regulations**

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

There should be no implementation costs or savings to the Department of Transportation and Development or local governmental units. This rule is being implemented at the

suggestion of Louisiana State Police in order to attempt to address certain safety issues which have arisen when oversize/overweight loads travel at times of questionable daylight. Hours of operation would henceforth be determined by the sunrise and sunset times established each day by the National Weather Service and which Weight Enforcement Police Officers can obtain currently on their computers.

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

There should be no effect on revenue collections of state or local governmental units if this rule change is implemented.

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

The Department of Transportation and Development currently requires the owners of vehicles of certain dimensions which are beyond legal restrictions to buy permits. One of the conditions of using the permits is to travel only during daylight hours. This rule seeks to narrow this condition by deleting the "thirty minutes before sunrise and thirty minutes after sunset" which was previously allowed. This new requirement could shorten the available time of movement for permit loads by one hour each day. This will affect the trucking companies which move such loads and the industries which own such loads, but this economic effect should be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment.

J. Michael Bridges  
Undersecretary  
0603#037

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Treasury State Employees' Retirement System

#### DROP Program—Interest (LAC 58:I.2715 and 4135)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes to amend LAC 58:I.2715 and adopt LAC 58:I.4135. These Rules will clearly establish that interest is paid by LASERS only on traditional DROP funds and not on funds once transferred into the Self-Directed Plan. This Rule complies with and is enabled by R.S. 11:511 and 11:515.

#### Title 58 RETIREMENT

#### Part I. Louisiana State Employees' Retirement System

#### Chapter 27. DROP Program

#### Subchapter C. Withdrawal

#### §2715. Interest

A. ...

B. Plan year shall mean fiscal year. The actual posting of interest shall not be performed until the system actuary's report is approved by the Public Retirement Systems Actuarial Committee.

C. Interest shall not be paid on funds transferring to the Self-Directed Plan. DROP participants who are vested under LAC 58:I.4103 who choose to transfer their funds to the SDP shall not be paid DROP interest under this section beginning on the date LASERS receives the participant's request for transfer. DROP participants who were not vested under LAC 58:I.4103 shall not be paid DROP interest under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 31:946 (April 2005), LR 32:

#### Chapter 41. Self-Directed Plan §4135. No DROP Interest

A. Participants in the SDP shall not receive interest paid by LASERS on traditional DROP/IBO accounts under the provisions of LAC 58:I.2715.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 32:

#### Family Impact Statement

The proposed amendment of LAC 58:I.2715 and adoption of LAC 58:I.4135 makes clear that interest paid on traditional DROP accounts is not to be paid on funds transferred to the Self-Directed Plan. This regulation should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

No preamble for this Rule is necessary. Interested persons may submit written comments on the proposed changes until 4:30 p.m., April 26, 2006, to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement, P.O. Box 44213, Baton Rouge, LA 70804.

Robert L. Borden  
Executive Director

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

#### RULE TITLE: DROP Program—Interest

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

No implementation costs to state or local governmental units are anticipated to result from the implementation of this rule.

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

No effect on revenue collections of state or local governmental units is anticipated to result from the implementation of this rule.

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

Persons who either transfer funds from a traditional DROP account into the Self-Directed Plan ("SDP") or who are eligible only for the SDP will be directly affected. The proposed rule makes no changes to current procedures; therefore, no costs or economic benefits are anticipated to result. Additionally, a

typographical correction is proposed to correctly reflect the actual current procedure; again, there is no anticipated cost or benefit to affected persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated to result from the implementation of these rules.

Robert L. Borden  
Executive Director  
0603#039

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Treasury  
State Employees' Retirement System**

**DROP Program—Time for Disbursement (LAC 58:I.2713)**

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes to amend LAC 58:I.2713. The amended Rule will set out the manner in which disbursements from DROP accounts shall be made. This Rule complies with and is enabled by R.S. 11:515.

**Title 58  
RETIREMENT**

**Part I. Louisiana State Employees' Retirement System**

**Chapter 27. DROP Program**

**Subchapter C. Withdrawal**

**§2713. Time for Disbursement**

A. ...

B. Disbursements from the DROP accounts shall be made on the first day of each month; if the first is a weekend or holiday, the disbursement shall be made on the following workday.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:2466 (December 1999), LR 29:1121 (July 2003), LR 30:2079 (September 2004), LR 32:

**Family Impact Statement**

The proposed amendments of LAC 58:I.2713 moves up the date of disbursement of DROP funds by LASERS to eligible participants. This regulation should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

No preamble for this Rule is necessary. Interested persons may submit written comments on the proposed changes until 4:30 p.m., April 26, 2006, to Steve Stark, Board of Trustees

for the Louisiana State Employees' Retirement, P.O. Box 44213, Baton Rouge, LA 70804.

Robert L. Borden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: DROP Program  
Time for Disbursement**

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

No implementation costs to state or local governmental units are anticipated to result from the implementation of this rule.

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

No effect on revenue collections of state or local governmental units is anticipated to result from the implementation of this rule.

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

DROP participants will be directly affected. LASERS makes DROP disbursements once per month. The proposed rule changes the date from the sixth to the first, allowing DROP participants to more quickly access their funds.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated to result from the implementation of these rules.

Robert L. Borden  
Executive Director  
0602#040

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Treasury  
State Employees' Retirement System**

**Self-Directed Plan—Time to Transfer Funds  
(LAC 58:I.4111)**

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes to amend LAC 58:I.4111. This Rule sets out the time in which funds are transferred from LASERS to the third-party administrator of the Self-Directed Plan. It is being amended as a contingency in connection with the impending LASERS system software changeover. This Rule complies with and is enabled by R.S. 11:511 and 11:515.

**Title 58  
RETIREMENT**

**Part I. Louisiana State Employees' Retirement System**

**Chapter 41. Self-Directed Plan**

**§4111. Time to Transfer Funds**

A. Except in emergency circumstances as determined by the executive director:

1. LASERS shall forward the entire deposit balance of a participant to the third party administrator within 10 working days from the end of the DROP accumulation period. LASERS may supplement or otherwise correct balances forwarded in those instances where there are errors,

missing documents or incomplete reports submitted by agencies reporting earnings for the participant;

2. for participants in the Initial Benefit Option ("IBO") or for those DROP participants whose accumulation period is less than six months, LASERS shall transfer 80 percent of the DROP/IBO balance within 45 days from the date of initial transfer into the SDP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004), amended LR 32:

#### **Family Impact Statement**

The proposed amendment of LAC 58:I.4111 concerns the time in which funds are transferred from LASERS to the third-party administrator of the Self-Directed Plan. This regulation should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

No preamble for this Rule is necessary. Interested persons may submit written comments on the proposed changes until 4:30 p.m., April 26, 2006, to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement, P.O. Box 44213, Baton Rouge, LA 70804.

Robert L. Borden  
Executive Director

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Self-Directed Plan Time to Transfer Funds**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
No implementation costs to state or local governmental units are anticipated to result from the implementation of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No effect on revenue collections of state or local governmental units is anticipated to result from the implementation of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Traditional DROP participants transferring funds into the Self-Directed Plan ("SDP") and those persons completing the SDP accumulation period will be directly affected. LASERS is in the process of changing its internal system software, including that which maintains the accounting of individual DROP accounts. The proposed rule amendment is designed to give LASERS the flexibility to slightly delay (projected to be no more than 21 days) the transfer of DROP funds from LASERS to the third party administrator of the SDP.

Depending on which investment has been chosen, there could be a loss or an increase in the earnings of the affected SDP participant; this makes it impossible to estimate the impact of the rule.

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

No effect on competition and employment is anticipated to result from the implementation of these rules.

Robert L. Borden  
Executive Director  
0603#038

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

#### **NOTICE OF INTENT**

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

#### **Shrimping Closed Season, Vessel Monitoring System (LAC 76:VII.369)**

The Wildlife and Fisheries Commission does hereby give notice of its intent to establish rules and regulations for a vessel monitoring system on boats that harvest or possess shrimp and has onboard a person who requires monitoring.

#### **Title 76**

#### **WILDLIFE AND FISHERIES**

#### **Part VII. Fish and Other Aquatic Life**

#### **Chapter 3. Saltwater Sport and Commercial Fishing §369. Shrimping Closed Season, Vessel Monitoring System**

A. Purpose. To maximize voluntary compliance with shrimping regulations and to reduce purposeful shrimping violations by providing adequate deterrence thereby reducing recidivism.

B. Persons who are required to be monitored:

1. any person subject to a court order requiring monitoring;
2. any person having two or more convictions during the preceding five year period for harvesting shrimp during closed season.

C. Persons required to be monitored shall not be present on board any vessel harvesting or possessing shrimp, or which has any trawl, skimmer, or butterfly net on board, unless that vessel is equipped with and is using and employing an approved, fully functional and operating, vessel monitoring system (VMS) as required by R.S. 56:495.1 and R.S. 56:497.1 and these regulations.

D. Required Monitoring Periods

1. Persons who are subject to a court order requiring that they be monitored shall be monitored and who do not have two or more convictions during the preceding five year period for harvesting shrimp during closed season for the period specified by the order of the court.

2. Persons who have had two convictions during the preceding five year period for harvesting shrimp during closed season shall be monitored for a period of three years from the date of the most recent conviction.

3. Persons who have had three or more convictions during the preceding five year period for harvesting shrimp during closed season shall be monitored for a period of 10 years from the date of the most recent conviction.

E. The VMS unit must be approved and certified, must be installed onboard the vessel, and must be fully

operational. The department must first be notified of the installation, before a person who is required to be monitored may be present onboard the vessel. If a person who is required to be monitored is found to be on any vessel-harvesting shrimp or possessing shrimp, or possessing any trawl, skimmer, or butterfly net without an approved VMS device being on board and operating, the person who is required to be monitored shall be in violation of VMS shrimping requirements and shall be guilty of a class four violation pursuant to R.S. 56:497.1.C and R.S. 56:34. Each license issued to a person who is required to be on a VMS monitored vessel shall indicate that the licensee may only be present on a VMS monitored vessel.

F. Persons who are required to be monitored shall be responsible for the following VMS Requirements.

1. The vessel must have installed within it a fully operational and approved VMS Devices. Approved devices are those devices approved by NOAA Fisheries or the Secretary of the Department of Wildlife and Fisheries for fisheries in the Gulf of Mexico and which meet the minimum performance criteria specified in Paragraph 2 of this Subsection. In the event that a VMS is deleted from the list, vessel owners who purchased a VMS unit on the VMS list prior to approval of the revised list will be in compliance with the requirement to have an approved unit, unless otherwise notified by the Department of Wildlife and Fisheries.

2. Minimum VMS Performance Criteria. Basic required features of the VMS are as follows.

a. The VMS shall be satellite-based and tamper proof, i.e., shall not permit the input of false positions; furthermore, satellite selection must be automatic to provide an optimal fix and must not be capable of being manually overridden.

b. The VMS shall be fully automatic and operational at all times, regardless of weather and environmental conditions.

c. The VMS shall be fully operable and must track the vessel in all of Louisiana coastal waters and throughout the Gulf of Mexico.

d. The VMS shall be capable of transmitting and storing information including vessel identification, date, time and latitude/longitude.

e. The VMS unit shall make all required transmissions to a designated and approved VMS vendor who shall be responsible for monitoring the vessel and reporting information to the department.

f. The VMS shall provide accurate position transmissions every half-hour, every day of the year, during required monitoring period. In addition, the VMS shall allow polling of individual vessels or any set of vessels at any time and permit those monitoring the vessel to receive position reports in real time. For the purposes of this specification, real time shall constitute data that reflect a delay of 15 minutes or less between the displayed information and the vessel's actual position.

g. The VMS vendor shall be capable of transmitting position data to a Department of Wildlife and Fisheries designated computer system via a modem at a minimum speed of 9600 baud. Transmission shall be in a file format acceptable to the department. Such transmission must be made at any time upon demand of the department.

h. The VMS vendor shall be capable of archiving vessel position histories for a minimum of three months, as transmitted by the VMS unit, and provide transmissions to the department of specified portions of archived data in response to department requests in a variety of media (tape, compact disc, etc.) as specified by the department.

3. Operating Requirements. All required VMS units must transmit a signal indicating the vessel's accurate position at least every half-hour, 24 hours a day, when a person who is required to be monitored is on board the monitored vessel.

4. Presumption. If a VMS unit fails to transmit an hourly signal of a vessels position, the vessel shall be deemed to have incurred a VMS violation, for as long as the unit fails to transmit a signal, unless a preponderance of evidence shows that the failure to transmit was due to an unavoidable malfunction, or disruption of the transmission that occurred while the vessel was declared out of the shrimp fishery, as applicable, or was not at sea.

5. Replacement. Should a VMS unit require replacement, a vessel owner must submit documentation to the Department of Wildlife and Fisheries Law Enforcement Division Headquarters VMS coordinator, within three days of installation and prior to the vessel's next trip, verifying that the new VMS unit is an operational, approved system as described in this Section.

6. Access. All vessel owners shall allow the Department of Wildlife and Fisheries, and their authorized wildlife enforcement agents or designees access to the vessel's VMS unit and data, if applicable, and location data obtained from its VMS unit, if required, at the time of or after its transmission to the vendor or receiver, as the case may be.

7. Tampering. Tampering with a VMS, a VMS unit, or a VMS signal, is prohibited. Tampering includes any activity that is likely to affect the unit's ability to operate properly, signal, or accuracy compute the vessel's position fix.

8. Violation. Failure to abide by any regulation set forth regarding the use or operation of VMS, or failure to have VMS when required shall be a violation of R.S. 56:497.1.C and requirements of probation where applicable. All shrimp taken or possessed by a person in violation of these rules, and who is identified on his commercial license as required to be VMS monitored, shall be deemed illegally taken and possessed. The provisions of this section do not exempt any person from any other laws, rules, regulation, and license requirements for this or other jurisdictions. Violations of this Section shall constitute a Class 4 violation.

9. All costs and monthly fees associated with the installation, operation and monitoring of any VMS system in accordance with these rules shall be the responsibility of the person required to be monitored and shall be paid by him directly to the approved VMS supplier and monitoring facilitator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:495.1, and R.S. 56:497.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 32:

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.

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 in R.S. 49:972(B).

Interested parties may submit comments relative to the proposed Rule to Major Jeff Mayne, Law Enforcement Division, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, May 4, 2006.

Terry D. Denmon  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Shrimping Closed Season,  
Vessel Monitoring System**

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

Implementation of the proposed rule will be carried out using existing staff and funding levels. Aside from a slight increase in workload and paperwork associated with monitoring, downloading, and storing vessel monitoring system information, there will be no implementation costs to state governmental units. Local governmental units will not be impacted.

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

Revenue collections of state and local governmental units will not be affected.

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

The proposed rule defines monitoring system requirements of a shrimp vessel that has on board a person who was convicted of multiple shrimping violations during the closed season or that is subject to court ordered monitoring. Any person subject to a court order requiring that they be monitored, or who has two (2) or more convictions for harvesting shrimp in a closed season during the preceding five (5) years, will be affected. If persons required to be monitored are on board a vessel harvesting or possessing shrimp, or having any trawl, skimmer, or butterfly net on board, the vessel must have on board an operating vessel monitoring system that meets or exceeds the requirements defined in this rule.

A one-time equipment purchase and installation fee will be incurred, along with monthly communication/monitoring fees and any necessary maintenance and repair costs. First-year costs per vessel are estimated to range between \$1,770 and \$3,740, depending on the type of system selected. Costs incurred in subsequent years are estimated to be between \$420 and \$840 per year, plus any necessary maintenance and repair costs. Net income of persons directly affected will be reduced by the initial equipment and installation costs and the continuous monthly communication, monitoring, maintenance, and repair costs associated with the system for the duration of the monitoring period.

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

A slight decrease in competition and employment may occur in the private sector. No effect on competition and employment in the public sector is anticipated.

Janice A. Lansing  
Undersecretary  
0603#035

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

# Potpourri

## POTPOURRI

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Structural Pest Control Commission

#### Approved Termiticides and Manufacturers

The Louisiana Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, is hereby giving notice of the list of termiticides and manufacturers, approved by the Structural Pest Control Commission, for use in Louisiana.

Approved Termiticides and Manufacturers		
Product	Percentage	Manufacturer
Bifen IT (Bifenthrin)	0.06% - 0.12%	Control Solutions
Bifen PT (Bifenthrin)	0.06% - 0.12%	Control Solutions
Bifenthrin Pro Multi-Insecticide (Bifenthrin)	0.06% - 0.12%	BASF
Bifenthrin TC (Bifenthrin)	0.06% - 0.12%	Control Solutions
Bifenthrin Termiticide/Insecticide (Bifenthrin)	0.06% - 0.12%	Speckoz
Biflex TC (Bifenthrin)	0.06% - 0.12%	FMC
*Chlorpyrifos TC (Chlorpyrifos)	0.75% - 2.00%	Micro-Flo
Cyper TC (Cypermethrin)	0.25% - 1.00%	Control Solutions
Cypermethrin G-Pro (Cypermethrin)	0.25% - 1.0%	GRO-PRO
*Cyren TC (Chlorpyrifos)	0.75% - 2.00%	Cheminova
Demon (Cypermethrin)	0.25% - 1.00%	Zeneca
Demon MAX (Cypermethrin)	0.25% - 1.00%	Syngenta
Dominion 75 WSP (Imidacloprid)	0.05% - 0.10%	Control Solutions
Dragnet FT (Permethrin)	0.50% - 2.00%	FMC
Dragnet SFR (Permethrin)	0.50% - 2.00%	FMC
*Dursban 75WG (Chlorpyrifos)	0.75% - 2.00%	Dow AgroSciences
*Dursban TC (Chlorpyrifos)	0.75% - 2.00%	Dow AgroSciences
*Equity (Chlorpyrifos)	0.75% - 2.00%	Dow AgroSciences
Impasse Termite System (Lambda-cyhalothrin)		Syngenta
Impasse Termite Blocker (Lambda-cyhalothrin)		Syngenta
Maxxthor SC (Bifenthrin)	0.06% - 0.12%	Ensystem
*Navigator 4TC (Chlorpyrifos)	0.75% - 2.00%	Gharda USA, Inc.
Permaster 380 (Permethrin)	0.50% - 2.00%	LG Chemical America Inc.
Permethrin SFR (Permethrin)	0.50% - 2.00%	Control Solutions
Permethrin TC (Permethrin)	0.50% - 2.00%	Micro-Flo
Phantom (Chlorfenapyr)	0.063% - 0.25%	BASF
Prelude (Torpedo)(Permethrin)	0.50% - 2.00%	Zeneca
Premise 75 (Imidacloprid)	0.05% - 0.10%	Bayer
Premise .05SC (Imidacloprid)	0.05% - 0.10%	Bayer
Premise II (Imidacloprid)	0.05% - 0.10%	Bayer
Premise Pre-construction (Imidacloprid)	0.05% - 0.10%	Bayer
**Premise Gel (Imidacloprid)	0.001%	Bayer
Prevail (Cypermethrin)	0.25% - 1.00%	FMC
Prevail TC (Cypermethrin)	0.30% - 0.60%	FMC
Prevail FT (Cypermethrin)	0.25% - 1.00%	FMC
Prevail Pretreat (Cypermethrin)	0.25% - 1.00%	FMC
***Pryfon 6	0.75%	Bayer
Pro-Build TC (Cypermethrin)	0.25% - 1.0%	Syngenta
*Surrender (Chlorpyrifos)	0.75% - 2.00%	Solutions
Talstar Pretreat (Bifenthrin)	0.06% - 0.12%	FMC
Talstar (Bifenthrin)	0.06% - 0.12%	FMC
Talstar One Multi - Insecticide (Bifenthrin)	0.06% - 0.12%	FMC

Tengard SFR (Permethrin)	0.50% - 2.00%	United Phosphorus
*Tenure (Chlorpyrifos)	0.75% - 2.00%	Dow AgroSciences
Termidor (Fipronil)	0.06% - 0.125%	BASF
Termidor 80WG (Fipronil)	0.06% - 0.125%	BASF
Termidor SC (Fipronil)	0.06% - 0.125%	BASF
Tribute (Benzeneacetate)	0.50% - 1.00%	AgriEvo
ValueLine Bifenthrin TC (Bifenthrin)	0.06% - 0.12%	FMC
NOTES:*Manufacture of all Chlorpyrifos products with approved label rates was discontinued as of December 31, 2001.		
**Premise Gel is approved for targeted (spot) application only.		
***Use of Pryfon limited to supplies on hand, but its use is being phased out.		
<b>Baits (Not in Pilot Program)</b>		
FirstLine GTX Termite Bait Station (Sulflurimid)		FMC
FirstLine GT Termite Bait Station (Sulflurimid)		FMC
FirstLine Termite Bait Station (Sulflurimid)		FMC
FirstLine GT Plus (Sulflurimid)		FMC
Labyrinth (Diflubenzuron)		Ensystem
Labyrinth AC (Diflubenzuron)		Ensystem
Recruit II (Hexaflumuron)		Dow Agro Sciences
Recruit II AG (Hexaflumuron)		Dow Agro Sciences
Recruit III (Noviflumuron)		Dow Agro Sciences
Recruit III AG (Noviflumuron)		Dow Agro Sciences
Recruit IV (Noviflumuron)		Dow Agro Sciences
Recruit IV AG (Noviflumuron)		Dow Agro Sciences
Shatter (Hexaflumuron)		Dow Agro Sciences
T-Max (Noviflumuron)		Dow Agro Sciences/ Terminix International
T-Max AG (Noviflumuron)		Dow Agro Sciences/ Terminix International
<b>BAITS (In Pilot Program)</b>		
Subterfuge (Cyanamid)(Hydramethylnon)	2/13/2002	BASF
Advance Compressed Termite Bait (Diflubenzuron)	10/2/2002	Whitmire Micro-Gen

Bob Odom  
Commissioner

0603#036

## POTPOURRI

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

#### Identification of BART Eligible Sources (0603Pot2)

On June 15, 2005, the Environmental Protection Agency (EPA) finalized amendments to the July 1999 Regional Haze Rule for Protection of Visibility in National Parks and Wilderness Areas. These amendments apply to the provisions of the regional haze rule that require emission controls known as best available retrofit technology (BART) for industrial facilities emitting visibility-impairing pollutants, specifically particulate matter, sulfur dioxide (SO<sub>2</sub>), and nitrogen dioxide (NO<sub>x</sub>). The final rule and other EPA documentation related to BART may be found at <http://www.epa.gov/visibility/actions.html>.

The BART requirements of the regional haze rule apply to facilities built between 1962 and 1977 that have the potential to emit facility-wide more than 250 tons per year (tpy) of one or more visibility-impairing pollutants and impact a mandatory class I Federal area. These stationary sources fall into 26 categories, including utility and industrial boilers and large industrial plants such as pulp mills, refineries, and smelters.

In order to comply with the BART portion of the regional haze rule, the Louisiana Department of Environmental Quality must first identify all BART eligible sources. In November 2002, a survey was distributed to all facilities actively reporting to the emission inventory. The data provided in the survey responses was used to compile the following list of BART eligible sources. If any of the information contained in the list is incorrect or if subject facilities have been omitted, a facility representative should contact James Orgeron at (225) 219-3578 or at James.Orgeron@LA.gov, or Darlene Doshier-Collard at (225) 219-3580 or at Darlene.Doshier-Collard@LA.gov, of the Office of Environmental Assessment, Air Quality Assessment Division, Plan Development Section. All facilities on this list are considered to have a BART eligible source and to be subject to all the requirements of the BART rule.

FACILITY NAME	AI #	COMPANY NAME	EIS ID
Addis Plant	4174	Sid Richardson Carbon Co. & Gasoline	3120-0006
Alexandria Plant	872	Procter & Gamble MFG Co.	2360-0051
Anchorage Tank Farm	858	ExxonMobil Refinery & Supply Co.	3120-0056
Baton Rouge Breakout Tank Farm	582	Plantation Pipe Line Co.	0840-0053
Baton Rouge Chemical Plant	286	ExxonMobil Chemical Co.	0840-0014
Baton Rouge Facility	248	Deltech Corporation	0840-0006
Baton Rouge Facility	1314	Rhodia Inc.	0840-0033
Baton Rouge Plant	1395	Lion Copolymer LLC	0840-0008
Baton Rouge Plastics Plant	285	ExxonMobil Chemical Co.	0840-0018
Baton Rouge Refinery	638	ExxonMobil Refinery & Supply Co.	0840-0015
Big Cajun 1 Power Plant	11917	LA Generating LLC	2260-0010
Big Cajun 2 Power Plant	38867	LA Generating LLC	2260-0005
Cameron Meadows Gas Plant	26858	Williams Field Services	0560-0034
Canal Plant	19901	Cabot Corporation	2660-0004
Chalmette Refinery	1376	Chalmette Refinery LLC	2500-0005
Chlorine Caustic Facility	1137	Occidental Chemical Corp.	2520-0007
Cos-Mar Styrene Plant	1607	Atofina Petrochemicals Inc.	1280-0013
Cypress Polypropylene Plant	19276	Union Carbide Corp.	2520-0019
DeRidder Paper Mill & Newsprint LLC	19933	Boise Packaging	0320-0002
Doc Bonin Station	31135	Lafayette Consolidated Government	1520-0002

FACILITY NAME	AI #	COMPANY NAME	EIS ID
Donaldsonville Facility	2398	Terra Mississippi Nitrogen Inc.	0180-0005
Donaldsonville Facility	2245	Terra Mississippi Nitrogen Inc.	0180-0009
Donaldsonville Nitrogen Complex	2416	CF Industries, Inc.	0180-0004
Faustina Plant	2425	Mosaic Fertilizer LLC	2560-0005
Garden City Gas Plant	17159	ExxonMobil Production Co.	2660-0025
Geismar Agricultural & Phosphate Plant	3732	PCS Nitrogen Fertilizer, L. P.	0180-0028
Geismar Ethylene Plant	5565	Williams Olefins LLC	0180-0030
Geismar Facility	1093	Monochem Inc.	0180-0002
Geismar Plant	1136	Shell Chemical LP	0180-0010
Gramercy Plant	1388	Gramercy Alumina LLC	2560-0002
Gravelite Division	1272	Big River Industries, Inc.	2260-0002
Henry Gas Processing Plant	615	Texaco Pipelines LLC	2940-0010
Houma Generating Station	8838	Terrebonne Parish Consolidated Government	2880-0019
Ivanhoe Carbon Black Plant	2518	Degussa Engineered Carbons LP	2660-0018
Lake Charles Chemical Plant	3271	Sasol North America Inc.	0520-0019
Lake Charles Complex	1255	PPG Industries, Inc.	0520-0004
Lake Charles Facility	1244	Firestone Polymers LLC	0520-0007
Lake Charles Plant	27051	Lyondell Chemical Co.	0520-0189
Louisiana Bastrop Mill	1338	International Paper Co.	1920-0001
Louisiana Operations	1409	Dow Chemical Co.	1280-0008
Louisiana Refining Division	3165	Marathon Petroleum Co LLC	2580-0013
Meraux Refinery	1238	Murphy Oil USA, Inc.	2500-0001
Minden Steam Power Plant	26409	City of Minden	3080-0013
New Orleans Facility	2062	Air Products & Chemicals, Inc.	2140-0016
Norco Chemical Plant-East Site	26336	Shell Chemical LP	2520-0079
Norco Refinery	1406	Motiva Enterprises LLC	2520-0002
Oak Point Plant	1708	Chevron Oronite Co. LLC	2240-0001
Pineville Kraft Mill	2140	International Paper Co.	2360-0001
Plaquemine Methanol Plant	3129	Ashland Chemical Co.	1280-0009
Pontchartrain Site	38806	DuPont Performance Elastomer LLC	2580-0041
Pontchartrain Works	1101	E. I. DuPont de Nemours & Co. Inc.	2580-0001
Port Allen Refinery	2366	Placid Refining Co., LLC	3120-0010
Port Hudson Operations	2617	Georgia Pacific Corp.	0840-0010
Rodemacher Power Station	2922	CLECO Power LLC	2360-0010
Hodge Mill	3647	Smurfit-Stone Container Enterprises Inc.	1300-0001
Shreveport Sulfuric Acid Plant	2340	Chemtrade Refinery Services Inc.	0500-0003
St. Charles Operations	2083	Union Carbide Corp.	2520-0001
St. Charles Refinery	26003	Valero Refining - New Orleans LLC	2520-0016
St. Francisville Mill	2073	Tembec USA LLC	3160-0003

FACILITY NAME	AI #	COMPANY NAME	EIS ID
St. Gabriel Plant	2367	Syngenta Crop Protection Inc.	1280-0007
St. James Facility	2384	Chevron Phillips Chemical Co. LP	2560-0007
Taft Plant	2720	Mosaic Fertilizer LLC	2520-0006
Teche Power Station	2432	CLECO Power LLC	2660-0007
Uncle Sam Plant	2532	Mosaic Fertilizer LLC	2560-0004
Venice Gas Processing Plant	17897	Targa Midstream Services Limited Partnership	2240-0003
Ville Platte Plant	1291	Cabot Corporation	0920-0001
Westlake Facility	1253	Basell USA Inc.	0520-0006
West Monroe Mill #31	1432	Graphic Packaging International Inc.	2160-0001

Herman Robinson, CPM  
Executive Counsel

0603#059

**POTPOURRI**

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

**Proposed Revisions to the Inspection/Maintenance (I/M)  
State Implementation Plan (SIP) for Baton Rouge**

Notice is hereby given that pursuant to the requirements of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and 40 *Code of Federal Regulations*, §51.102, of the United States Environmental Protection Agency (EPA) regulations concerning SIPs, the Louisiana Department of Environmental Quality will conduct a public hearing to receive comments regarding proposed revisions to the I/M SIP for Baton Rouge.

The proposed revisions include, but are not limited to: 1) requirements to exempt the newest two model-year vehicles from On-Board Diagnostic testing; and 2) the revised corresponding I/M program rule and modeling demonstration.

A public hearing on the proposed revisions to the I/M SIP will be held on April 25, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed I/M SIP revisions. 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 I/M SIP revisions. Persons commenting should reference the proposed revisions by 0603Pot1. Such comments must be received no later than May 2, 2006, at 4:30 p.m., and should be sent to Vivian Aucoin, Office of Environmental Assessment, Air Quality Assessment Division, Box 4314, Baton Rouge, LA 70821-4314 or to FAX (225) 219-3582 or by email to vivian.aucoin@la.gov. Copies of the proposed revisions may 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 the proposed I/M SIP revisions. The I/M SIP revisions are available on the Internet at [www.deq.louisiana.gov/portal/tabid/2381/Default.aspx](http://www.deq.louisiana.gov/portal/tabid/2381/Default.aspx). The document is also available for inspection at the DEQ office, 602 N. Fifth Street, Baton Rouge, Louisiana.

Herman Robinson, CPM  
Executive Counsel

0603#058

**POTPOURRI**

**Office of the Governor  
Oil Spill Coordinator's Office**

Final Damage Assessment and Restoration  
Plan/Environmental Assessment  
Sonat Goins Oil Spill

**Agencies:** Louisiana Oil Spill Coordinator's Office/Office of the Governor (LOSCO); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Wildlife and Fisheries (LDWF); and United States Department of Agriculture (USDA); which is represented by the United States Forest Service (USFS)

**Action:** Notice of availability of a Final Damage Assessment and Restoration Plan/Environmental Assessment.

**Summary:** Notice is hereby given that a document entitled, "Final Damage Assessment and Restoration Plan/Environmental Assessment, Sonat Goins Oil Spill, Vernon Parish, Louisiana" (Final DARP/EA) is final and available to the public as of March 20, 2005. This document has been prepared by the agencies listed above (Trustees) to address injuries to natural resources and services following the August 8, 1997 discharge of crude oil onto the Goins Tract in Vernon Parish, near Cravens, Louisiana (the incident). This document presents the Trustees' assessment of injuries to natural resources and services attributable to this incident, and their plan to restore, replace, or acquire resources or services equivalent to those lost as a basis for compensating for the injuries to natural resources and services that occurred.

Interested members of the public are invited to request a copy of the Final DARP/EA from Gina Muhs Saizan at the address given below.

**Further Information:** Contact Gina Muhs Saizan at 225-219-5800 or by email [gina.saizan@la.gov](mailto:gina.saizan@la.gov) (to view the Final DARP/EA via the internet: [www.losco.state.la.us](http://www.losco.state.la.us) and look under the News Flash for Sonat Oil Spill Final DARP/EA).

**Address:** Requests for copies of the Final DARP/EA should be sent to:

Gina Muhs Saizan  
Louisiana Oil Spill Coordinator's Office  
150 Third Street, Suite 405  
Baton Rouge, LA 70801  
[gina.saizan@la.gov](mailto:gina.saizan@la.gov)

**Supplementary Information:** The public was given an opportunity to review and comment on the Draft DARP/EA during the public comment period, which extended from October 20, 2005 through November 20, 2005. Public review of the Draft DARP/EA is consistent with all state and

federal laws and regulations that apply to the Natural Resource Damage Assessment (NRDA) process, including Section 1006 of the Oil Pollution Act (OPA), 33 U.S.C. §2706; the regulations for NRDA under OPA, 15 C.F.R. Part 990; Section 2480 of the Louisiana Oil Spill Prevention and Response Act (OSPRA), R.S. 30:2480 *et seq.*; and the regulations for NRDA under OSPRA, La. Admin. Code 43: Part XXIX, Chapter 1. The Trustees did not receive comments during the public comment period and have finalized the DARP/EA for the August 8, 1997 discharge of crude oil onto the Goins Tract in Vernon Parish, near Cravens, Louisiana.

Roland Guidry  
Oil Spill Coordinator

0603#045

**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
Workover One, Inc.	Pointe a la Hache	L	UL 3 RB Vub;R E Fontenelle	1	145250
James E. Kemp	Big Creek	M	M L Ratcliff	2	31904
Allen H. Dykes	Big Creek	M	R P Ivy	1	57789
Harter & Langford	Richland	M	Yarbrough	1	121081

James H. Welsh  
Commissioner

0603#030

**POTPOURRI**

**Department of Natural Resources  
Office of the Secretary  
Fishermen's Gear Compensation Fund**

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 *et seq.*, notice is given that 10 claims in the amount of \$39,111.05 were received for payment during the period January 1, 2006-February 28, 2006.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2909.517	9038.639	Terrebonne
2914.189	9001.316	Jefferson
2914.399	895.740	Jefferson
2915.109	9004.779	Lafourche
2916.800	9054.470	Terrebonne

2918.091	8945.716	Plaquemines
2934.542	8933.771	Plaquemines
2937.980	8947.330	Plaquemines
2941.787	8922.018	St. Bernard
2951.394	8940.440	St. Bernard

There were seven claims paid and three claims denied.

A list of claimants and amounts paid can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225) 342-0122.

Scott A. Angelle  
Secretary

0603#081

**POTPOURRI**

**Department of Social Services  
Office of Community Services**

2006 Louisiana Social Services Block Grant

The Department of Social Services (DSS) announces opportunities for public review of the state's pre-expenditure report on intended uses of Social Services Block Grant (SSBG) funds for the state fiscal year (SFY) beginning July 1, 2006, and ending June 30, 2007. The proposed SFY 2006-2007 SSBG Intended Use Report has been developed in compliance with the requirements of Section 2004 of the Social Security Act (SSA), as amended and includes information on the types of activities to be supported and the categories or characteristics of individuals to be served through use of the state's allocation of SSBG funds. Section 2004 of the SSA further requires that the SSBG pre-expenditure report shall be "made public within the state in such manner as to facilitate comment by any person." The DSS as the designated state services agency will continue to administer programs funded under the SSBG in accordance with applicable statutory requirements and federal regulations. The DSS/Office of Community Services (OCS) will be responsible for provision of social services, by direct delivery and vendor purchase, through use of SFY 2005 and SFY 2006 SSBG expenditures for Adoption, Child Protection, Day Care for Children, Family Services, Foster Care/Residential Habilitation Services.

Additionally, and separate and apart from the traditional SSBG funding priorities, the Intended Use Report describes the uses of a Supplemental Appropriation for hurricane relief. These are federal funds from the Department of Defense Act (HR 2863) for states most severely affected and for expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005. A separate public hearing regarding the intended uses of these funds was held on March 14, 2006.

For non-supplemental funds, Louisiana, through DSS/OCS, will utilize its allotted funds to provide comprehensive social services on behalf of children and families in fulfillment of legislative mandates for child protection and child welfare programs. These mandated services, and certain other essential social services, are provided without regard to income (WRI) to individuals in need. Individuals to be served also include low-income

persons as defined in the Intended Use Report who meet eligibility criteria for services provided through SSBG funding.

Services designated for provision through SSBG non-supplemental funding for SFY 2006–2007 are:

A. Adoption (pre-placement to termination of parental rights)

B. Child Protection (investigation of child abuse/neglect reports, assessment, evaluation, social work intervention, shelter care, counseling, referrals)

C. Day Care for Children (direct care for portion of the 24-hour day as follow-up to investigations of child abuse/neglect)

D. Family Services (social work intervention subsequent to validation of a report of child abuse/neglect, counseling to high risk groups)

E. Foster Care/Residential Habilitation Services (foster, residential care, and treatment on a 24-hour basis)

Definitions for the proposed services are set forth in the Intended Use Report.

Persons eligible for non-supplemental SSBG funded services include:

A. Persons WRI, who are in need of adoption services, child protection, family services, and foster care/residential habilitation services.

B. Individuals WRI who are recipients of Title IV-E adoption assistance.

C. Recipients of Supplemental Security Income and recipients of Temporary Assistance for Needy Families (TANF) and those persons whose needs were taken into account in determining the needs of TANF recipients.

D. Low-income persons (income eligible) whose gross monthly income is not more than 125 percent of the poverty level. A family of four with gross monthly income of not more than \$2,083 would qualify as income eligible for services.

E. Persons receiving Title XIX (Medicaid) benefits and certain Medicaid applicants identified in the proposed plan as group eligibles.

Post expenditure reports for the SSBG program for SFY 2002-2003 and 2003-2004 are included in the previous year's SSBG Intended Use Report for SFY 2005-2006. The report is available for public review on line at: [www.dss.state.la.us](http://www.dss.state.la.us). Free copies are available by telephone request to (225) 342-2416 or by writing to the Assistant Secretary, Office of Community Services, Attention: Planning and Accreditation Section, P. O. Box 3318, Baton Rouge, LA 70821.

Interested persons will have the opportunity to provide recommendations on the proposed SFY 2006-2007 SSBG

Intended Use Report, at a public hearing scheduled for 10 a.m., Friday, April 21, 2006 at the Department of Social Services, Auditorium A, 755 Third Street, Baton Rouge, LA. Written comments should be directed to the Assistant Secretary of OCS at the above post office box address. Comments must be received by the close of business Friday, May 5, 2006.

Ann S. Williamson  
Secretary

0603#048

## POTPOURRI

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### 2006/07 Hunting Season Public Hearings Schedule

Public hearings for the Notices of Intent published in the February 2006 *Louisiana Register* (pages 332-336) entitled General and WMA Hunting Rules and Regulations and 2006-07 Hunting Season Dates will be held at the following locations:

March 13, 6:30 p.m., Alexandria Convention Hall, Alexandria;

March 14, 6:00 p.m., Yambilee Center, Opelousas;

March 16, 7:00 p.m., Council on Aging Building, Winnsboro;

March 20, 7:00 p.m., Bossier Civic Center, Bossier City;

March 20, 7:00 p.m., Ruston Civic Center, Ruston;

March 23, 6:30 p.m., LSU Agriculture Center, Lake Charles;

March 23, 6:30 p.m., LDWF Headquarters Building, Louisiana Room, Baton Rouge;

March 23, 6:00 p.m., Houma Municipal Auditorium, Houma; and

March 30, 6:30 p.m., SLU University Center, Hammond.

Also comments will be accepted at regularly scheduled Wildlife and Fisheries Commission Meetings. Interested persons may submit written comments relative to the proposed Rule until Thursday, May 4, 2006 to Mr. David Moreland, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000.

Terry D. Denmon  
Chairman

0603#034

**CUMULATIVE INDEX**  
(Volume 32, Number 3)

Pages	2006	Issue
1 – 186.....		January
187 – 350.....		February
351 – 518.....		March
EO—Executive Order PPM—Policy and Procedure Memoranda ER—Emergency Rule R—Rule N—Notice of Intent CR—Committee Report GR—Governor's Report L—Legislation P—Potpourri		

**ADMINISTRATIVE CODE UPDATE**

**Cumulative**

January 2005—December 2005, 174

**AGRICULTURE AND FORESTRY**

**Agriculture and Environmental Sciences, Office of  
Advisory Commission on Pesticides**

Antimicrobial pest control, 7ER  
 Commercial applicators certification, 127N

**Pesticides and Environmental Programs, Division of**

Imposition of quarantine for Hurricanes Katrina  
 and Rita, 178P

**Commissioner, Office of the**

Chloramphenicol  
 in crabs and crabmeat, 7ER  
 in honey, 10ER  
 in shrimp and crawfish, 13ER  
 Meat and poultry inspections, 128N, 267N

**Soil and Water Commission**

Master Farmer Certification Program, 129N

**Forestry, Office of**

Forest landowner assistance, 271N  
 Timber stumpage values, 178P

**Horticulture Commission**

Landscape architect  
 Continuing education, 339P  
 Registration exam, 178P, 339P  
 Licenses, 78R, 131N  
 Retail floristry examination, 178P

**Structural Pest Control Commission**

Approved termiticides/manufacturers, 339P, 509P  
 Termite control licensing, 133N

**CIVIL SERVICE**

**Civil Service Commission**

Furlough, 193ER, 272N  
 Overtime earned hour for hour, 272N

**ECONOMIC DEVELOPMENT**

**Secretary, Office of the**

Angel Investor Tax Program, 229R  
 Capital Companies Tax Credit Program, 16ER  
 Small Entrepreneurship Certification Program,  
 229R

**EDUCATION**

**Elementary and Secondary Education, Board of**

Bulletin 111  
 Accountability, 273N  
 Bulletin 118  
 Statewide assessment, 232R, 390R  
 Bulletin 121  
 Students Teaching and Reaching (STAR)  
 Content Standards, 135N  
 Bulletin 122  
 Trade and Industrial Education Curricula,  
 443N  
 Bulletin 741  
 Curriculum and instruction, 240R, 286N  
 Bulletin 1196  
 Louisiana Food and Nutrition Programs  
 Operation policies, 139N  
 Bulletin 1794  
 State Textbook Adoption Policy, 287N  
 Bulletin 1934  
 Starting Points Preschool Regulations, 463N  
 Bulletin 1943  
 Policies/Procedures for Louisiana Teacher  
 Assistance and Assessment, 391R

**Regents, Board of**

Insurance; surety bonds, 386R

**Student Financial Assistance Commission**

**Student Financial Assistance, Office of**

Bylaws, 391R

**Tuition Trust Authority**

Start Savings Program  
 Bylaws, 392R  
 Interest rate, 358ER

## ENVIRONMENTAL QUALITY

### Secretary, Office of the Legal Affairs Division

BART eligible sources, 509P  
CAFO permits compliance deadline extension, 364ER, 469N  
Clean air interstate rule, 179P  
Compatibility/health/safety, 464N  
DMR completion, 468N  
Expedited penalty agreement, 358ER  
Financial assurance correction, 366ER, 470N  
Inspection maintenance/state implementation plan for Baton Rouge, 511P  
Laboratory accreditation exemption for analyses of target volatile organic compounds, 367ER  
RCRA XV package, 471N  
Underground storage tanks, 393R

### Legal Services Division

2005 Incorporation by reference, 290N  
Air quality, 292N  
Clean air interstate rule program, 340P  
Cote Gelee Wetland, 295N  
Eight hour ambient ozone standard, 193ER  
Emissions  
Estimation methods, new/revised, 17ER  
Inventory, 241R  
Hazardous waste recyclable materials, 300N  
Luling Wetland, 297N  
New source review nonattainment, 193ER  
Sewage sludge regulatory management, 18ER  
SIP general revisions, 340P  
South Slough Wetland, 299N

## EXECUTIVE ORDERS

KBB 05-95—Emergency Procedures for Conducting State Business for the Louisiana Superdome, 1EO  
KBB 05-96—Delay of the Qualifying Period and the February 4, 2006 and March 4, 2006 Elections in the Parish of Orleans, 2EO  
KBB 05-97—Bond Allocation-Louisiana Public Facilities Authority, 2EO  
KBB 05-98—Suspension of Certain Residency Requirements for Certain Boards, 3EO  
KBB 05-99—Emergency Suspension of In-State Licensure Laws for Out-of-State Towing Operators—Extends Executive Order No. KBB 05-60, 3EO  
KBB 05-100—Emergency Suspension of Certain Workers' Compensation Laws—Extends Executive Order No. KBB 05-52, 4EO  
KBB 05-101—2005 Carry-Forward Bond Allocation—Louisiana Housing Finance Agency Multi-Family Mortgage Revenue Bond Program, 4EO  
KBB 05-102—2005 Carry-Forward Bond Allocation—Louisiana Public Facilities Authority—Student Loan Revenue Bonds, 5EO  
KBB 06-01—Emergency Procedures for Repairing, Renovating, or Replacing State Owned Buildings Damaged by Hurricane Katrina or Rita, 187EO

KBB 06-02—Rescheduling the Qualifying, Proposition, Primary, and General Elections in the Parish of Orleans, 187EO  
KBB 06-03—Rescheduling Primary Elections and General Elections in the Parish of Jefferson, 188EO  
KBB 06-04—Statewide Interoperable Communication System Executive Committee, 189EO  
KBB 06-05—Declaration of Public Health Emergency for Control and Disposition of Human Remains, 190EO  
KBB 06-06—Commadeering Property for Repair of the 17th Street Canal, 191EO  
KBB 06-07—Urban Search and Rescue Commission Amends Executive Order No. KBB 05-05, 351EO  
KBB 06-08—Louisiana Rebirth Panel, 351EO  
KBB 06-09—Gulf Opportunity Zone Bond Allocation Procedures, 352EO  
KBB 06-10—Emergency Suspension of Certain Workers' Compensation Laws—Extends Executive Order No. KBB 05-52, 356EO  
KBB 06-11—Louisiana Stadium and Exposition District Authorization for Series 2006 Bonds, 356EO

## GOVERNOR

### Administration, Division of

#### Architectural Examiners, Board of

Associate, 83R

#### Certified Shorthand Reporters, Board of Examiners of

Certificate renewal emergency extension, 368ER

#### Commissioner, Office of

Small entrepreneurship/Hudson initiative, 196ER, 485N

#### Cosmetology, Board of

Examination of applicants/transfer students, 146N  
Student hours, uniforms, equipment, permits and licenses, 147N

#### Uniform Payroll, Office of

Payroll deduction, 84R

#### Boxing and Wrestling Commission

Contestant definition, 242R  
HIV testing, 242R

#### Crime Victims Reparations Board

Victim compensation, 242R

#### Financial Institutions, Office of

Louisiana Community Development Financial Institution Program, 200ER, 310N

#### Indigent Defense Assistance Board

Funding for indigents, 309N

#### Law Enforcement and Administration of Criminal Justice, Commission on

Peace officer training, 308N, 483N  
Subgrant guidelines, 78R

#### Oil Spill Coordinator's Office

Final damage and restoration plan/ environmental assessment, 511P

Restoration planning Jefferson Parish, 343P

#### Patient's Compensation Fund Oversight Board

Qualified health care provider services, 208ER



## HEALTH AND HOSPITALS

### **Chiropractic Examiners, Board of**

Peer Review Committee, 149N

### **Dentistry, Board of**

General provisions, 243R

Licensure for dental healthcare providers, 35ER, 489N

### **Nursing, Board of**

Anesthetic agents, administration of, 245R

Clinical facilities, 311N

Registered nurses, advanced practice, 246R

### **Practical Nurse Examiners, Board of**

Temporary permits, 153N

### **Secretary, Office of the**

#### **Citizens with Developmental Disabilities, Office of**

Home/Community Based Waiver Program

New opportunities waiver, 217ER, 218ER

#### **Health Services Financing, Bureau of**

Adult dentures, 369ER

CommunityCARE Program, 404R

Dental services for pregnant women, expanded, 38ER, 372ER

Durable Medical Equipment Program

Reimbursement, 36ER, 369ER

Early and Periodic Screening, Diagnosis and Treatment Program

Dental services reimbursement, 37ER, 370ER

Durable medical equipment reimbursement, 37ER, 370ER

Eligibility

Medicaid loans/mortgages/promissory notes, 216ER

Facility Need Review, 39ER, 312N

Hemodialysis centers, 373ER

Home health agencies emergency preparedness, 40ER, 312N

Home Health Program

Nursing services, extended, 406R

Home Health Services, 373ER

Hospice, 374ER

Hospital(s)

Inpatient

Disproportionate share hospital, 210ER

Private

Hospitals, reimbursement, 41ER, 375ER

Psychiatric services reimbursement, 41ER, 375ER

State hospitals, 247R

Laboratory and X-Ray, 376ER

Louisiana hurricane relief waiver, 377ER

Outpatient

Private hospitals, 56ER, 380ER

ICF-MR (Intermediate Care Facility-Mentally Retarded)

Emergency preparedness

Community homes licensing, 42ER, 314N

Group homes licensing, 44ER, 315N

Residential homes licensing, 46ER, 317N

Private facilities reimbursement, 45ER, 376ER

Medical Transportation Program

Emergency ambulance services, 371ER

Non-emergency ambulance services, 372ER

Mental Health Rehabilitation Program, 47ER, 379ER

Nursing Facilities

Minimum licensing standards, 494N

Emergency preparedness, 54ER, 319N

Private, reimbursement, 56ER, 380ER

Pharmacy Benefits Management Program

Antihemophilia drugs, 247R

Erectile dysfunction drugs, 217ER

Professional Services Program

Anesthesia services, 57ER, 381ER

Physician services

Reimbursement, 58ER, 381ER

Supplemental pay, 382ER

Skilled nursing, extended/multiple daily, 406R

Targeted case management, 59ER, 383ER

Third party liability

Insurance carriers data match, 60ER, 321N

Waivers/Family planning, 322N

Organ procurement agency coordination, 403R

### **Primary Care and Rural Health, Bureau of**

Medicare Rural Hospital Flexibility Program

Critical access hospitals, 99R

### **Public Health, Office of**

Infectious Disease Epidemiology Program, 490N

Neonatal screening, 248R

Tuberculosis Control Program, 98R

### **Veterinary Medicine, Board of**

Fee schedule, 181P

### **Wholesale Drug Distributors, Board of**

Wholesale drug distributors, 394R

## INSURANCE

### **Commissioner, Office of the**

Hurricane Damage

Insurance

Residential claims, 60ER

Residential/Commercial

Right to cancel/nonrenew, 65ER

Military personnel, 94R

## JUSTICE

### **Attorney General, Office of the**

#### **Public Protection Division**

Database security breach, 219ER

## LABOR

### **Worker's Compensation, Office of**

#### **Worker's Compensation Second Injury Board**

Settlements, requirements, computation of time, 92R

## NATURAL RESOURCES

### Conservation, Office of

Orphaned oilfield sites, 181P, 512P

### Injection and Mining Division

Docket No. IMD 2006-01, 182P

Docket No. IMD 2006-02, 182P

### Mineral Resources, Office of

Dry Hole Credit Program, 496N

### Secretary, Office of the

Fisherman's Gear Compensation Fund

Loran coordinates, 183P, 512P

## PUBLIC SAFETY AND CORRECTIONS

### Correction Services, Office of

Adult inmates

Visitation, 406R

Institution furloughs, non-medical, 249R

Crime victims services, 324N

### Gaming Control Board

Video draw poker, 108R

### State Fire Marshal, Office of

Emergency generators health care facilities, 109R

### State Police, Office of

#### Applied Technology Unit

Analysis of breath

Intoxilyzer 5000 maintenance inspection,  
68ER, 110R

Operator certification, 69ER, 109R

Towing, recover, and storage, 159N

### Youth Services/Youth Development, Office of

Correspondence and packages, 154N

Crimes committed on grounds, 101R

Freon recovery, 102R

Furlough process/escorted absence, 102R

Marriage requests, 107R

Selective service registration, 108R

Tobacco free and no smoking policy, 157N

## REVENUE

### Charitable Gaming, Office of

Casino nights, 251R

Electronic bingo, 255R

### Policy Services Division

Contractors

Health insurance credit, 219ER, 328N

Nonresident, 261R

Corporation

Definition, 260R

Franchise tax, 415R

Income tax, 260R

Disaster

Interest waiver/filing extensions, 260R

Relief credits, presidential, 69ER, 170N

Sales tax refund for tangible property, 262R

Federal gross income modifications, 261R

Fire fighting equipment purchased by volunteer  
fire departments, 111R

Gross income segregation, 263R

Hotel services, taxable, 221ER, 328N

Louisiana apportionment percent determination,  
421R

Net allocable income computation, 409R

Payment of taxes demand, 111R

Retail sale, 111R

Retirement income exemption, 259R

Telephone Company Property Assessment  
Relief Fund, 329N

## Tax Commission

Ad valorem taxation, 425R

Timber stumpage values, 178P

## SOCIAL SERVICES

### Family Support, Office of

Child Care Assistance Program

Grants/job search, 222ER

FITAP

Redetermination interview waiver, 263R

Food Stamp Program/FITAP/KCSP, 383ER

Lump sum payments, 171N, 224ER

Kinship Care Subsidy Program

Redetermination interview waiver, 263R

Support Enforcement Services Program

Child support electronic disbursement,  
225ER, 442R

TANF initiatives

Caseload reduction report, 345P

Temporary Emergency Disaster Assistance  
Program, 72ER, 501N

Truancy assessment/service centers, 73ER, 264R

### Community Services, Office of

Legal fees in child protection cases, 112R

Louisiana Social Services block grant, 512P

Louisiana's Emergency Shelter Grants Program 2005  
anticipated funds availability, 344P

Neglect of newborn, 221ER

### Management and Finance, Office of

Substance abuse, employee testing, 114R

## TRANSPORTATION AND DEVELOPMENT

### Highways/Engineering, Office of

Outdoor advertising, control of, 117R

### Weights and Standards, Office of

Oversize/overweight permits, 503N

## **TREASURY**

### **Deferred Compensation Commission**

Member election procedures, 118R  
Public employees deferred compensation  
plan, 118R

### **Louisiana State Employees' Retirement System**

Actuarial calculations, 265R  
Certification of continuing eligibility, 265R  
DROP Program  
Interest, 504N  
Time for disbursement, 505N  
Emergency refunds, 172N  
Hurricane emergency  
Employee contribution, 74ER  
Refund, 73ER  
Self-Directed Plan, 505N

### **Teachers' Retirement System**

Furlough credit, involuntary, 330N  
Gulf Opportunity Zone Act DROP  
distributions, 225ER, 332N  
Purchase of service credit, 74ER

## **WILDLIFE AND FISHERIES**

### **Wildlife and Fisheries Commission**

Abandoned crab traps, removal, 266R  
General and WMA hunting, 332N  
Hunting season public hearing schedule, 513P  
King mackerel, 75ER  
Oyster, 77ER, 226ER, 385ER  
Red snapper, 75ER  
Reef fish, 76ER  
Resident game hunting, 335N  
Shrimp, 77ER, 226ER, 506N  
Spotted seatrout, 125R, 337N