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Executive Orders

EXECUTIVE ORDER KBB 06-51

Bond Allocation—Louisiana Local Government
Environmental Facilities
and Community Development Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. KBB 2005-12 was issued to establish:

- (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2006 (hereafter "the 2006 Ceiling");
- (2) the procedure for obtaining an allocation of bonds under the 2006 Ceiling; and
- (3) a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Local Government Environmental Facilities and Community Development Authority has requested an allocation from the 2006 Ceiling to be used to finance the acquisition, construction, installation and equipping of a landfill facility affecting the parishes of Grant and Ouachita, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2006 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$3,000,000	Louisiana Local Government Environmental Facilities and Community Development Authority	CWI-White Oaks Landfill, LLC

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana's Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2006, provided that such bonds are delivered to the initial purchasers thereof on or before December 28, 2006.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: This Order is 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 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 12th day of December, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0701#079

EXECUTIVE ORDER KBB 06-52

Inmate Labor for Construction of Animal Shelters

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

WHEREAS, the Department of Public Safety and Corrections, Corrections Services, seeks to utilize inmate labor to assist in the construction of a permanent animal holding facility and an emergency animal shelter on the grounds of Dixon Correctional Institute in Jackson, Louisiana; and

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

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 21st day of December, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0701#080

EXECUTIVE ORDER KBB 06-53

Flags at Half Staff in Tribute to Former President Ford

WHEREAS, Gerald R. Ford, thirty-eighth President of the United States of America, died Tuesday, December 26, 2006, at the age of 93; and

WHEREAS, President Ford was a dedicated public servant who will be forever remembered for his leadership, integrity, and honorable conduct of his Administration;

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: As an expression of respect of the citizens of the state of Louisiana for Gerald R. Ford, thirty-eighth President of the United States of America, effective immediately, the flags of the United States and the state of Louisiana shall be flown at half-staff over the State Capitol and all public buildings and institutions of the state of Louisiana until sunset on Thursday, January 25, 2007.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 27th day of December, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0701#081

EXECUTIVE ORDER KBB 06-54

2006 Carry-Forward Bond Allocation
Louisiana Housing Finance Agency

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter "Act"), Executive Order No. KBB 2005-12 was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume

limits for the calendar year of 2006 (hereafter "the 2006 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2006 Ceiling; and

(3) a system of central record keeping for such allocations;

WHEREAS, Section 4(H) of KBB 2005-12 provides that if the ceiling for a calendar year exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the year by all issuers, by executive order, the governor may allocate the excess amount to issuers or an issuer for use as a carry-forward for one or more carry-forward projects permitted under the Act;

WHEREAS, Executive Order No. KBB 2006-42, issued on November 2, 2006, allocated twelve million five hundred thousand dollars (\$12,500,000) from the 2006 Ceiling to the Lake Charles Housing Authority in connection with Chateau Affordable, LLC, but the entire allocation of twelve million five hundred thousand dollars (\$12,500,000) was returned unused to the 2006 Ceiling;

WHEREAS, the governor desires to allocate fifty-five million one hundred ninety-seven thousand two hundred forty dollars (\$55,197,240) of the excess 2006 Ceiling as a carry-forward for a project which is permitted and eligible under the Act;

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

SECTION 1: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, as amended, and in accordance with the request for a carry-forward filed by the designated issuer, excess private activity bond volume limit under the 2006 Ceiling is hereby allocated to the following issuer, for the following carry-forward project, and in the following amount:

Issuer	Carry-Forward Project	Carry-Forward Amount
Louisiana Housing Finance Agency	Single Family Mortgage Revenue Bond Program	\$55,197,240

SECTION 2: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 3: This Order is 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 set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of December, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0701#082

EXECUTIVE ORDER KBB 07-01

Bond Allocation—Lake Charles Housing Authority

Amount of Allocation	Name of Issuer	Name of Project
\$9,750,000	Lake Charles Housing Authority	Chateau Affordable, LLC

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. KBB 2005-12 was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2007 (hereafter "the 2007 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2007 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Lake Charles Housing Authority has requested an allocation from the 2007 Ceiling to finance the acquisition, rehabilitation, and equipping of Chateau du Lac Apartments, a 198 unit residential rental facility for the elderly, located on 6.2 acres at 333 Mill Street, Lake Charles, Calcasieu Parish, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2007 Ceiling in the amount shown:

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2007, provided that such bonds are delivered to the initial purchasers thereof on or before April 10, 2007.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: This Order is 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 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 10th day of January, 2007.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0701#083

Emergency Rules

DECLARATION OF EMERGENCY

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Expedited Permit Processing Program
(LAC 33:I.Chapter 18)(OS073E2)

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 the expedited permit processing program.

This is a renewal of Emergency Rule OS073E1, which was effective on September 11, 2006, and published in the *Louisiana Register* on September 20, 2006.

This Emergency Rule provides a program for expedited permit processing and implementation of the associated expedited permit processing fees authorized by Acts 586 and 779 of the 2006 Regular Legislative Session. These Acts allow for expedited processing of a permit at no additional cost to the department for overtime pay. This Emergency Rule will allow the department to implement a pilot program format to gather the information needed to draft a final rule. Specifically, the department will be able to evaluate the environmental and public health benefits and the social and economic costs of expedited permit processing and the associated fees. Moreover, rapid implementation of Acts 586 and 779 will allow the expedited permit processing program to begin immediately, enhancing economic growth. Many companies consider environmental permitting timelines in determining where to locate a proposed facility. Expedited permit processing allows companies to act more quickly in response to market demands and conditions. The department is drafting a Rule to promulgate these regulations.

This Emergency Rule is effective on January 9, 2007, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning OS073E2 you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at www.deq.louisiana.gov/portal/tabid/1699/default.aspx 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 18. Expedited Permit Processing Program §1801. Scope

A. This Chapter establishes a program to expedite the processing of permits, modifications, licenses, registrations, or variances for environmental permit applicants who may request such services. Expedited processing of a permit, modification, license, registration, or variance is an exercise of the discretion of the administrative authority and is subject to the availability of resources needed in order to process the permit, modification, license, registration, or variance.

B. Eligibility

1. An application for an initial permit or permit modification necessary for new construction as required by the Environmental Quality Act or regulation is eligible for expedited permit processing.

2. An application for permit renewal and/or reconciliation is not eligible for expedited processing pursuant to the provisions of this Chapter unless it is associated with new construction; results in new permanent jobs; includes increases in production which benefit the national, state, or local economy; or provides a direct benefit to the environment.

3. The applicant's failure to pay any outstanding fees owed to the department may be considered grounds for denial of a request for expedited permit processing.

C. To the extent practicable, requests proposing new construction or requests that will result in the creation of new permanent jobs will be given highest consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.

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

§1803. Procedures

A. Requests for expedited permit processing shall be submitted using the approved form. The approved form is available on the official website for the department. Hard copies may be obtained from the Office of Environmental Services, Environmental Assistance Division, Box 4313, Baton Rouge, LA 70821-4313.

B. Within 10 working days after receipt of a request for expedited processing of any permit, modification, license, registration, or variance, the administrative authority shall issue a decision to grant or deny the expedited processing request.

C. Requests for Additional Information

1. If at any time during the review process of an application the administrative authority determines that additional information is necessary, the administrative authority shall notify the applicant and require a response from the applicant within a reasonable, specified time.

2. The applicant shall respond to the request for additional information within the time specified by the administrative authority. Such a response shall contain all information required by the administrative authority.

3. The administrative authority reserves the right to cease expedited processing of the permit, modification, license, registration, or variance in accordance with the provisions of this Chapter if the applicant fails to supply the requested additional information by the specified time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.

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

§1805. Fees

A. In addition to the fees charged pursuant to R.S. 30:2014, a fee shall be charged for each permit, modification, license, registration, or variance that is processed on an expedited basis in accordance with the provisions of this Chapter.

1. An appropriate fee shall be computed based on the maximum per hour overtime salary, including associated related benefits, of the civil service employee of the department who performs the work.

2. The fee shall be computed by multiplying the salary figure from Paragraph A.1 of this Section by every overtime hour or portion thereof that a department employee or contractor works on expedited processing of the permit, modification, license, registration, or variance.

3. The applicant may request that the expedited permit processing fee not exceed a maximum amount. If such a maximum amount is established, the number of overtime hours a department employee or contractor works processing the permit, modification, license, registration, or variance shall be limited accordingly. If further processing of the application is required, the department's continued review will not follow the provisions of this Chapter, and the request will no longer be handled on an expedited basis.

B. In the event that the administrative authority ceases processing a permit, modification, license, registration, or variance in accordance with LAC 33:I.1803.C.3 or Paragraph A.3 of this Section, a fee will be charged for every overtime hour or portion thereof that a department employee or contractor worked on expedited processing of the subject permit, modification, license, registration, or variance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.

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

§1807. Invoicing and Failure to Pay

A. An invoice for the expedited permit processing fee shall be transmitted to the applicant after the administrative authority has made a decision to grant or deny the permit, modification, license, registration, or variance.

B. Failure to pay the expedited permit processing fee by the due date specified on the invoice will constitute a violation of these regulations and shall subject the applicant to relevant enforcement action under the Louisiana Environmental Quality Act including, but not limited to, revocation or suspension of the permit, modification, license, registration, or variance.

C. A permit appeal, whether by the applicant or a third party, shall not stay the requirement to pay the expedited permit processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.

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

§1809. Public Notice and Availability of Records

A. Requirement to Provide Public Notice. The department shall provide notice of each permit, modification, license, registration, or variance that is processed pursuant to the provisions of this Chapter.

1. The notice of expedited permit processing shall be provided on the official website for the department.

2. For draft or proposed permit actions subject to public notice requirements under other regulations or program requirements, such public notice shall indicate that the draft or proposed permit was processed under the expedited permit processing provisions of this Chapter.

B. Contents of the Notice. The notice shall contain the name of the applicant/permittee, the agency interest number, the parish in which the facility is physically located, the environmental media involved, the date the request for expedited processing was received, and the date of the decision to approve or deny the request for expedited processing.

C. Availability of Records. All recorded information (completed permit application form, fact sheet or statement of basis, draft and proposed permits, or any public document) not classified as confidential information under R.S. 30:2030(A) or 30:2074(D) and designated as such in accordance with applicable regulations shall be made available to the public for inspection and copying in accordance with the Public Records Act, R.S. 44:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.

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

Mike D. McDaniel, Ph.D.
Secretary

0701#005

DECLARATION OF EMERGENCY

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

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

Pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB hereby invokes the Emergency Rule provisions of R.S. 49:953(B).

OGB finds that it is necessary to revise and amend provisions of the PPO, EPO, and MCO Plan Documents to increase the lifetime maximum benefit for outpatient prescription drug benefits from \$250,000 to \$500,000. Failure to adopt this Rule on an emergency basis will adversely affect availability of outpatient prescription drug benefits necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the following Emergency Rule, revising and amending the PPO, EPO, and MCO Plan Documents, is effective January 1, 2007 and shall remain in effect for the maximum period allowed by law, or until the final rule is promulgated, which ever occurs first.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 7. Schedule of Benefits—PPO

§701. Comprehensive Medical Benefits

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

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

A.1. - D. ...

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

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

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

Chapter 7. Schedule of Benefits—EPO

§701. Comprehensive Medical Benefits

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

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

A.1. - E. ...

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

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

2003), LR 30:1190 (June 2004), LR 32:1869 (October 2006). LR 33:

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

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

1. Lifetime Maximum Benefits

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

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

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

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

Tommy D. Teague
Chief Executive Officer

0701#010

DECLARATION OF EMERGENCY

**Office of the Governor
Manufactured Housing Commission**

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

In accordance with the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), which allows the Louisiana Manufactured Housing Commission (hereinafter the "Commission") to use emergency procedures to establish rules, and under the authority of R.S. 51:911.26(E), the Director of the Louisiana Manufactured Housing Commission declares that an emergency action is necessary to adopt appropriate installation standards for the citing of manufactured homes in the secondary market.

In consequence of the vast devastation and destruction sustained by property owners in the areas of the state affected by Hurricanes Katrina and Rita, many citizens of the state are utilizing or contemplating utilizing manufactured housing to address their housing needs. In order to minimize the potential of risk to public health, safety and welfare, it is imperative that manufactured homes be properly cited. Accordingly, pursuant to its permissive grant of authority to adopt appropriate installation standards for manufactured housing in the State of Louisiana, the commission now acts to adopt by rule and/or regulation an installation standard to govern the citing of manufactured housing in the secondary market as follows.

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 5. Manufactured Housing (Installation)

Subchapter A. General Requirements

§519. Placement of Used Homes

A. In accordance with 24 CFR Ch. XX §3280.305 et seq., manufactured homes in the secondary market shall be cited effective January 1, 2007 in accordance with federal

wind zones standards applicable for Louisiana zone II and III as set forth in 24 CFR Ch. XX §3280.305 et seq., and thereafter amended. However, if any manufactured home is cited within Louisiana wind zone II or III as of January 1, 2007 and the citing of this home within wind zone II or III can be definitively documented through such means as an installation permit sticker issued by and/or returned to the Louisiana Manufactured Housing Commission; a title which uniquely identifies your home and references the physical location of citing or some other independent means of credible documentation, then such manufactured home will be allowed to transfer indefinitely within the wind zone where it is cited as of January 1, 2007. Additionally, such manufactured home may also transfer to a less stringent wind zone than the zone where it is cited as of January 1, 2007.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Manufactured Housing Commission, LR 33:

Deane M. Frazier
Executive Director

0701#006

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Social Work Examiners

Temporary Credentialing during a
Declared Public Health Emergency
(LAC 46:XXV.309)

The Department of Health and Hospital, Board of Social Work Examiners (the "board") has adopted this Emergency Rule, effective December 8, 2006, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953, and the Louisiana Social Work Practice Act R.S. 37:2701-2723, as well as R.S. 29:769(E), as amended in Act. No. 207 of the 2006 Regular Session of the Louisiana Legislature, which became effective upon the governor's signature on June 2, 2006. The Emergency Rule is to remain in effect for a period of 120 days or until adoption of the final Rule, whichever occurs first.

In keeping with its function as set forth by the State Legislature in R.S. 29:769(E), as amended in the 2006 Regular Session, the board has developed and adopted this Emergency Rule thereby creating the process for adopting of a future Emergency Rule implementing temporary registration in Louisiana, during a public health emergency lawfully declared as such by the governor, for out-of-state social workers whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States.

The 2006 hurricane season began June 1, 2006. The immediate implementation of this Emergency Rule is in the best interest for the protection of the public health and safety in the event a public health emergency is lawfully declared by the governor prior to the final promulgation of the Rule through regular rule-making procedure. This Emergency Rule will allow the implementation by subsequent Emergency Rule for the temporary registration in Louisiana,

during a public health emergency lawfully declared as such by the governor, for out-of-state social workers whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States. The Emergency Rule will not limit or adversely impact the practices of Louisiana social workers at the present time or during a declared state of public health emergency.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXV. Certified Social Workers

Chapter 3. General Provisions

§309. Application Procedure

A. - P.3. ...

Q. Temporary Registration During a Declared Public Health Emergency

1. In a public health emergency lawfully declared as such by the Governor of Louisiana, the requirement for a Louisiana License or credential as a social worker may be suspended by the board at that time to those out-of-state social workers, whose credentials are current and unrestricted in another North American jurisdiction, for a period of time not to exceed the duration and scope of R.S. 29:769E, as more particularly set forth in this rule.

2. The following requirements for temporary credentialing may be imposed pursuant to the declared state of emergency and shall be in accordance with rules promulgated by the board.

3. A social worker not credentialed in Louisiana, whose credential is current and unrestricted in another jurisdiction of North America, may gratuitously provide services under the Louisiana Social Work Practice Act if:

a. the social worker has photo identification and a license to verify a current and unrestricted license in another jurisdiction of the United States, and properly registers with the board prior to providing social work services in Louisiana as follows, provided:

i. the social worker is engaged in a legitimate relief effort during the emergency period, and provides satisfactory documentation to the board of the location site(s) where gratuitous social work services will be provided;

ii. the social worker shall comply with the Louisiana Social Work Practice Act, board rules, and other applicable laws, as well as practice in good faith, and within the reasonable scope of his skill, training, and ability; and

ii. the social worker renders services on a gratuitous basis with no revenue of any kind to be derived whatsoever from the provision of services within the state of Louisiana.

4. The authority provided for in the Emergency Rule shall be applicable for a period of time not to exceed 60 days at the discretion of the board, with the potential extension of up to two additional periods not to exceed 60 days for each extension as determined appropriate and necessary by the board.

5. All interested social workers shall submit a copy of their respective current and unrestricted licenses, certifications or registrations issued in other jurisdictions of North America and photographic identification, as well as other requested information, to the Louisiana Board of Social Work Examiners for credentialing with this agency

prior to gratuitously providing social work services in Louisiana.

6. Should a qualified social worker credentialed with the board thereafter fail to comply with any requirement or condition established by this Section, the board may terminate his registration upon notice and hearing.

7. In the event a social worker fails to become credentialed with the board, but practices social work, whether gratuitously or otherwise, then such conduct will be considered the unlawful practice of social work and prosecuted accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C and R. S. 37:2701 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:302 (February 2000), amended LR 29:2383 (November 2003), LR 33:

Richard N. Burt
Administrator

0701#002

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment
Methodologies—Small Rural Hospitals
(LAC 50:V.311)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:V.311 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 promulgated an Emergency Rule to repeal and replace all Rules governing disproportionate share hospital (DSH) payment methodologies (*Louisiana Register*, Volume 31, Number 6). In compliance with Act 182 and Act 323 of the 2005 Regular Session of the Louisiana Legislature, the June 20, 2005 Emergency Rule was amended to establish provisions for provider fees levied on hospitals as a result of the Healthcare Affordability Act (*Louisiana Register*, Volume 31, Number 7) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 31, Number 9). The June 20, 2005 Emergency Rule was subsequently amended to incorporate the provisions of the July 1, 2005 and September 1, 2005 Emergency Rules (*Louisiana Register*, Volume 31, Number 10).

The October 25, 2005 Emergency Rule was amended to: 1) change the provisions governing DSH payments to other uninsured hospitals; 2) establish provisions governing payments to private community hospitals for services rendered to displaced, uninsured citizens from mandatory

evacuation parishes affected by Hurricanes Katrina and Rita; 3) change the provisions governing DSH payments to high uninsured hospitals and to establish provisions governing payments to public community hospitals (*Louisiana Register*, Volume 32, Number 7); 4) revise the provisions governing DSH payments to non-rural community hospitals as a result of the allocation of additional funds by the Legislature during the 2006 Regular Session (*Louisiana Register*, Volume 32, Number 9); and 5) incorporate the provisions of the June 28, 2006 and September 15, 2006 Emergency Rules (*Louisiana Register*, Volume 32, Number 10). The department now proposes to amend the October 23, 2006 Emergency Rule governing disproportionate share hospital payments to revise the definition of a small rural hospital. This action is being taken to avoid imminent threat to the public health and welfare and to assure that hospitals are adequately compensated for their uncompensated care. It is estimated that implementation of this proposed Emergency Rule will have no fiscal impact for state fiscal year 2006-2007.

Effective December 18, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the October 23, 2006 Emergency Rule governing disproportionate share hospital payment methodologies.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 3. Disproportionate Share Hospital Payment

Methodologies

§311. Small Rural Hospitals

A. Definitions

* * *

Small Rural Hospital—a hospital (excluding a long-term care hospital, rehabilitation hospital, or freestanding psychiatric hospital but including distinct part psychiatric units) that meets the following criteria:

a. had no more than 60 hospital beds as of July 1, 1994 and is located in a parish with a population of less than 50,000 or in a municipality with a population of less than 20,000; or

b. meets the qualifications of a sole community hospital under 42 CFR §412.92(a); or

i. met the qualifications of a sole community hospital as of June 30, 2005 and subsequently converts to critical access hospital status; or

* * *

B. - E. ...

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

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

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

Interested persons may submit written comments to Jerry Phillips, 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

0701#001

DECLARATION OF EMERGENCY

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

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:XV.7707 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 provides coverage and reimbursement of psychological and behavioral services under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Reimbursement for these services is based on 70 percent of the allowable rate on the 2002 Medicare Fee Schedule for Area 1 (*Louisiana Register*, Volume 29, Number 2). As a result of the allocation of additional funds by the Legislature during the 2006 Regular Session, the bureau proposes to increase the reimbursement fees for psychological and behavioral services in the EPSDT program.

This action is being taken to promote the health and welfare of Medicaid recipients and to maintain access to EPSDT psychological and behavioral services by encouraging the continued participation of psychological and behavioral services providers in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures for EPSDT psychological and behavioral services by approximately \$5,428 for state fiscal year 2006-2007.

Effective for dates of service on or after December 18, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology to increase the reimbursement rates for EPSDT psychological and behavioral services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening,

Diagnosis, and Treatment

Chapter 77. Psychological and Behavioral Services

§7707. Reimbursement Methodology

A. Effective for dates of services on or after December 18, 2006, reimbursement for EPSDT psychological and

behavioral services shall be based on 80 percent of the allowable rate on the 2006 Medicare Fee Schedule for Region 99.

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

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

Implementation of the provisions 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

0701#003

DECLARATION OF EMERGENCY

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

Professional Services Program—Physician Services
Reimbursement Rate Increase

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.

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 Current Procedural Terminology (CPT) codes and Healthcare Common Procedure Coding System (HCPCS) codes.

As a result of the allocation of additional funds by the Legislature during the 2003 Regular Session, the bureau increased reimbursement rates for selected CPT surgical and medical codes (*Louisiana Register*, Volume 31, Number 4).

Act 17 of the 2006 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to increase the Medicaid reimbursement rates paid to physicians. In compliance with the directives of Act 17, the bureau promulgated an Emergency Rule to increase the reimbursement rates paid to physicians for services provided in the following service areas: 1) outpatient office evaluation and management services; 2) outpatient office consultation services; 3) emergency department services; 4) preventive medicine services; and 5) General/Integumentary System

CPT codes. This Emergency Rule is being promulgated to continue the provisions of the October 4, 2006 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Medicaid Program and recipient access to providers of these medically necessary services.

Emergency Rule

Effective for dates of service on or after February 2, 2007, the Department of Health and Hospitals, Bureau of Health Services Financing increases the reimbursement rates paid to physicians for selected medical services provided to Medicaid recipients.

Outpatient Office Evaluation and Management Services

A. The reimbursement rate for outpatient office evaluation and management services shall be increased to 70 percent of the 2006 Medicare Region 99 allowable where the current Medicaid reimbursement rate is less than that amount.

B. The reimbursement rate for outpatient office evaluation and management services, when provided by a primary care physician (PCP) and the recipient is enrolled in the CommunityCARE Program, shall be increased to 80 percent of the 2006 Medicare Region 99 allowable where the current Medicaid reimbursement rate is less than that amount.

Outpatient Office Consultation Services

A. The reimbursement rate for outpatient office consultation services provided by physicians shall be increased to 70 percent of the 2006 Medicare Region 99 allowable where the current Medicaid reimbursement rate is less than that amount.

Emergency Department Services

A. The reimbursement rate for emergency department services shall be increased to 70 percent of the 2006 Medicare Region 99 allowable where the current Medicaid reimbursement rate is less than that amount.

B. The reimbursement rate for emergency department services, when provided by a PCP and the recipient is enrolled in the CommunityCARE Program, shall be increased to 80 percent of the 2006 Medicare Region 99 allowable where the current Medicaid reimbursement rate is less than that amount.

Preventive Medicine Services

A. The reimbursement rate for preventive medicine services for recipients, age 0 through 20, shall be increased by 10 percent of the current Medicaid rate in effect on September 30, 2006.

B. The reimbursement rate for preventive medicine services for recipients, age 0 through 20, provided by the PCP or the recipient's KidMed provider, shall be increased by 15 percent of the current Medicaid rate in effect on October 3, 2006.

General/Integumentary System Codes

A. The reimbursement rate paid for CPT codes in the General/Integumentary System section (CPT codes 10021-19499) shall be increased to 70 percent of the 2006 Medicare Region 99 allowable where the current reimbursement rate is less than that amount.

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

0701#072

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Rule 22—Alternative Procedures for the Resolution of Disputed Residential Insurance Claims Arising from Hurricane Damage (LAC 37:XI.Chapter 41)

The Department of Insurance (department) hereby states that the following circumstances continue to constitute an immediate danger to the public health, safety, or welfare. The 2005 hurricane season was particularly destructive for Louisiana. Hurricane Katrina caused catastrophic damage in southeast and central Louisiana; particularly hard were Plaquemines, St. Bernard and Orleans Parishes. Katrina caused widespread major damage to homes, loss of personal belongings and corresponding temporary loss of employment.

On September 24, 2005, Hurricane Rita hit the Cameron Parish area of Louisiana's southwest coast causing extensive and wide spread damage. The Governor of Louisiana declared a state of emergency (Proclamation No. 48 KKB 2005 and Proclamation No. 53 KKB 2005) due to the effects of Hurricanes Katrina and Rita, respectively. The President of the United States declared designated parishes of Louisiana a federal disaster area by issuing FEMA-1603-DR and FEMA-1607-DR for Katrina and Rita, respectively.

The total cost of property losses resulting from the combination of storms has been estimated to be in the tens of billions of dollars. The initial issuance of this Emergency Rule, in January 2006 (*Louisiana Register*, January 2006, Volume 32, page 60) complied with Code Title XIX—Alternative Dispute Resolution, particularly Chapter 1, The Louisiana Mediation Act, R.S. 9:4101 et seq., and implemented a non-adversarial alternative dispute resolution procedure. The facilitated claim resolution conference was prompted by the critical need for effective, fair, and timely handling of personal lines insurance claims arising out of damage to residential property caused by these two hurricanes.

Since the program's inception more than 9,700 Louisiana homeowners have requested to have their property claim mediated, with an overall settlement rate in excess of 75 percent. Despite this success, now almost 16 months after the hurricanes it is estimated that many thousands of residential property claims remain unresolved and repairs to damaged property has not been completed. Many of these claims remain unresolved as a result of disputes regarding costs of labor and materials needed to effectuate repairs. Due to the unprecedented extent of damage, in many instances materials and labor necessary to effectuate repairs have not

been readily available and there have been disparities between the estimates of insurers and repair contractors.

Insureds with unresolved claims and un-repaired residences continue to be exposed to emotional, physical and economic hardship and remain at risk. Insureds are at risk of receiving sub-quality work, or being faced with a substantial disparity between repair estimates and customary costs in the area. This condition erodes the ability of insureds to realize the benefit of their insurance coverage. This Rule establishes a procedure to determine a construction pricing guideline to be used in mediation proceedings to determine reasonable payments for repair and replacement costs arising from damage caused by hurricanes Katrina and Rita.

Due to decisive action by the Louisiana Legislature this past session, the apparent one year prescriptive period for claims of these types (R.S. 22:691) is being extended to two years. Continuation of the program at this time will provide homeowners the opportunity and a forum to resolve their claims without having to file suit.

Based upon the forgoing, the department has determined that an emergency continues to exist and continuation of the claims mediation program and the availability of guidelines for construction pricing are essential to the resolution of insurance claims and the effectuation of repairs of damage covered by insurance policies.

Summary of the Rule: this Emergency Rule establishes a special mediation program for personal lines residential insurance claims resulting from Hurricanes Katrina and Rita. The rule creates procedures for notice of the right to mediation, request for mediation, assignment of mediators, payment for mediation, conduct of mediation, and guidelines for the quality repair of residential property damage.

The person to be contacted regarding the Emergency Rule is Barry E. Ward, Senior Attorney, Division of Legal Services, Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9412; 225-219-4750.

Title 37

INSURANCE

Part XI. Rules

Chapter 41. Rule 22—Alternative Procedures for the Resolution of Disputed Residential Insurance Claims Arising from Hurricane Damage: Specific Reasons for Finding an Immediate Danger to the Public Health, Safety or Welfare

§4101. Authority

A. This Emergency Rule is promulgated by the Commissioner of Insurance pursuant to authority granted under the Louisiana Insurance Code, Title 22; R.S. 22:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§4103. Purpose and Scope

A. This Emergency Rule in compliance with the Louisiana Mediation Act, R.S. 9:4101 et seq., sets forth a non-adversarial alternative dispute resolution procedure for a facilitated claim resolution conference prompted by the critical need for effective, fair, and timely handling of personal lines insurance claims arising out of damages to residential property caused by Hurricanes Katrina and Rita.

B. This Emergency Rule also addresses guidelines for the quality repair of residential property damaged by Hurricanes Katrina and Rita at reasonable and fair prices.

C. Before resorting to these procedures, insureds and insurers are encouraged to resolve claims as quickly and fairly as possible.

D. The procedure established by this Emergency Rule is available to all first party claimants who have personal lines claims resulting from damage to residential property occurring in the state of Louisiana. This rule does not apply to commercial insurance, private passenger motor vehicle insurance or to liability coverage contained in property insurance policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§4105. Definitions

A. The following definitions apply to the terms of this rule as used herein.

Administrator—the department or its designee (American Arbitration Association) and the term is used interchangeably with regard to the department's duties under this rule.

Claim—any matter on which there is a dispute or for which the insurer has denied payment pursuant to claims arising from Hurricanes Katrina and Rita only. Unless the parties agree to mediate a claim involving a lesser amount, a "claim" involves the insured requesting \$500 or more to settle the dispute, or the difference between the positions of the parties is \$500 or more. "Claim" does not include a dispute with respect to which the insurer has reported allegations of fraud, based on an investigation by the insurer's special investigative unit, to the department's Division of Insurance Fraud.

Department—the Department of Insurance or its designee. Reporting to the department shall be directed to: Department of Insurance, Mediation Section, P.O. Box 94214, Baton Rouge, LA, 70804-9214; or by facsimile to (225) 342-1632.

Mediator—an individual approved by the administrator to mediate disputes pursuant to this rule. In order to be approved, mediators must appear on the "approved register" of mediators maintained by the Alternative Dispute Resolution (ADR) section of the Louisiana State Bar Association pursuant to R.S. 9:4105, or provide sufficient evidence of having completed the mandatory qualifications set forth in R.S. 9:4106.

Party or Parties—the insured and his or her insurer, including Citizens Property Insurance Corporation, when applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§4107. Notification of Right to Mediate

A. Insurers shall notify each of their insureds in this state, who has claimed damage to their residential property as a result of either Hurricane Katrina or Hurricane Rita, of their right to mediate the claim settlement. This requirement applies to all claims including any and all instances where checks have been issued by the insurer to the homeowner.

B. The insurer shall mail a notice of the right to mediate disputed claims to the insured within five days of the time the policyholder or the administrator notifies an insurer of a dispute regarding the policyholder's claim. The following shall apply.

1. If the insurer has not been notified of a disputed claim prior to the time an insurer notifies the insured that a claim has been denied in whole or in part, the insurer shall mail a notice of the right to mediate disputed claims to the insured in the same mailing as a notice of denial.

2. The insurer is not required to send a notice of the right to mediate disputed claims if a claim is denied because the amount of the claim is less than the policyholder's deductible.

3. The mailing that contains the notice of the right to mediate may include the department's consumer brochure on mediation.

4. Notification shall be in writing and shall be legible, conspicuous, and printed in at least 12-point type.

5. The first paragraph of the notice shall contain the following statement: "James J. Donelon, Commissioner of Insurance for the State of Louisiana, has adopted an Emergency Rule to facilitate fair and timely handling of residential property insurance claims arising out of Hurricanes Katrina and Rita that recently devastated so many homes in Louisiana. The Emergency Rule gives you the right to attend a mediation conference with your insurer in order to settle any dispute you have with your insurer about your claim. You can start the mediation process by calling the mediation administrator, the American Arbitration Association (AAA), at 1-800-426-8792. An independent mediator, who has no connection with your insurer, will be in charge of the mediation conference."

C. The notice shall also:

1. include detailed instructions on how the insured is to request mediation, including name, address, and phone and fax numbers for requesting mediation through the administrator;

2. include the insurer's address and phone number for requesting additional information; and

3. state that the administrator will select the mediator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§4109. Request for Mediation

A. An insured may request mediation by contacting the insurer or by writing to the American Arbitration Association, Mediation Section, 1100 Poydras Street, Suite 2725, New Orleans, LA 70163; by calling the administrator at 1-800-426-8792; or by faxing a request to the administrator at (504) 561-8041.

B. If an insured requests mediation prior to receipt of the notice of the right to mediation or if the date of the notice cannot be established, the insurer shall be notified by the administrator of the existence of the dispute prior to the administrator processing the insured's request for mediation.

C. If an insurer receives a request for mediation, the insurer shall fax the request to the mediation administrator within three business days of receipt of the request. Should the department receive any requests, it will forward those requests to the administrator within three business days

following the receipt. The administrator shall notify the insurer within 48 hours of receipt of requests filed with the department. The insured should provide the following information if known:

1. name, address, and daytime telephone number of the insured and location of the property if different from the address given;

2. the claim and policy number for the insured;

3. a brief description of the nature of the dispute;

4. the name of the insurer and the name, address, and phone number of the contact person for scheduling mediation;

5. information with respect to any other policies of insurance that may provide coverage of the insured property for named perils such as flood or windstorm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§4111. Mediation Costs

A. All mediation costs shall be borne by the insurer shall be \$350 regardless of where the property is located.

B. Within five days of receipt of the request for mediation from the insured or receipt of notice of the request from the department or immediately after receipt of notice from the administrator pursuant to §4109 that mediation has been requested, whichever occurs first, the insurer shall pay a non-refundable administrative fee, not to exceed \$100 as determined by the department, to the administrator to defer the expenses of the administrator and the department.

1. The insurer shall pay \$250 to the administrator for the mediator's fee not later than five days prior to the date scheduled for the mediation conference.

2. If the mediation is cancelled for any reason more than 72 hours prior to the scheduled mediation time and date, the insurer shall pay \$75 to the administrator for the mediator's fee instead of \$250.

3. No part of the fee for the mediator shall be refunded to the insurer if the conference is cancelled within 72 hours of the scheduled time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§4113. Scheduling of Mediation

A. The administrator will select a mediator and schedule the mediation conference. The administrator will attempt to facilitate reduced travel and expense to the parties and the mediator when selecting a mediator and scheduling the mediation conference. The administrator shall confer with the mediator and all parties prior to scheduling a mediation conference. The administrator shall notify each party in writing of the date, time and place of the mediation conference at least 10 days prior to the date of the conference and concurrently send a copy of the notice to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§4115. Conduct of the Mediation Conference

A. R.S. 9:4101.C.(4) provides *mediation* is a procedure in which a mediator facilitates communication between the

parties concerning the matters in dispute and explores possible solutions to promote reconciliation, understanding, and settlement. As such, it is not necessary to involve a private attorney and participation by private attorneys is discouraged by the department. However:

1. if the insured elects to have an attorney participate in the conference, the insured shall provide the name of the attorney to the administrator at least six days before the date of the conference;

2. parties and their representatives must conduct themselves in the cooperative spirit of the intent of the law and this rule;

3. parties and their representatives must refrain from turning the conference into an adversarial process;

4. both parties must negotiate in good faith. A decision by an insurer to stand by a coverage determination shall not be considered a failure to negotiate in good faith. A party will be determined to have not negotiated in good faith if the party or a person participating on the party's behalf, continuously disrupts, becomes unduly argumentative or adversarial, or otherwise inhibits the negotiations as determined by the mediator;

5. the mediator shall terminate the conference if the mediator determines that either party is not negotiating in good faith, either party is unable or unwilling to participate meaningfully in the process, or upon mutual agreement of the parties;

6. the party responsible for causing termination shall be responsible for paying the mediator's fee and the administrative fee for any rescheduled mediation.

B. Upon request of the insured or the mediator, an attorney will be available to help insureds prepare for the mediation conferences. A representative of the department will be present at and participate in the conference if requested at least five days prior to the scheduled mediation by a party or the mediator to offer guidance and assistance to the parties. The department will attempt to have a representative at the conference if the request is received less than five days prior to the scheduled mediation. Representatives of the department that participate in the conference will not be there to represent the insured. They shall not assume an advocacy role but shall be available to provide legal and technical insurance information.

C. The representative of the insurer attending the conference must bring a copy of the policy and the entire claims file to the conference.

1. The representative of the insurer attending the conference must know the facts and circumstances of the claim and be knowledgeable of the provisions of the policy.

2. An insurer will be deemed to have failed to appear if the insurer's representative lacks authority to settle the full amount of the claim or lacks the ability to disburse the settlement amount at the conclusion of the conference.

D. The mediator will be in charge of the conference and will establish and describe the procedures to be followed. Per R.S. 9:4107, mediators shall conduct the conference in accordance with the standards of professional conduct for mediation adopted by the American Arbitration Association, the American Bar Association, and the Society of Professionals in Dispute Resolution.

1. Each party will be given an opportunity to present their side of the controversy. In so doing, parties may utilize

any relevant documents and may bring any individuals with knowledge of the issues, such as adjusters, appraisers, or contractors, to address the mediator.

2. The mediator may meet with the parties separately, encourage meaningful communications and negotiations, and otherwise assist the parties to arrive at a settlement.

3. All statements made and documents produced at a settlement conference shall be deemed settlement negotiations in anticipation of litigation. The provisions of R.S. 9:4112 apply.

E. A party may move to disqualify a mediator for good cause at any time. The request shall be directed to the administrator if the grounds are known prior to the mediation conference. Good cause consists of conflict of interest between a party and the mediator, inability of the mediator to handle the conference competently, or other reasons that would reasonably be expected to impair the conference.

F. If the insured fails to appear, without good cause as determined by the administrator, the insured may have the conference rescheduled only upon the insured's payment of the mediation fees for the rescheduled conference. If the insurer fails to appear at the conference, without good cause as determined by the administrator, the insurer shall pay the insured's actual expenses incurred in attending the conference and shall pay the mediator's fee whether or not good cause exists.

1. Failure of a party to arrive at the mediation conference within 30 minutes of the conference's starting time shall be considered a failure to appear.

2. Good cause shall consist of severe illness, injury, or other emergency which could not be controlled by the insured or the insurer and, with respect to an insurer, could not reasonably be remedied prior to the conference by providing a replacement representative or otherwise.

3. If an insurer fails to appear at conferences with such frequency as to evidence a general business practice of failure to appear, the insurer shall be subject to penalty, including suspension, revocation, or fine for violating R.S. 22:1214(14)(b), (c), (f), et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§4117. Guidelines for the Quality Repair of Residential Property at a Reasonable and Fair Price

A. The provisions of insurance policies and applicable statutes require claims payments made by insurers to be sufficient to effectuate required repairs at the property site. Further, misrepresentation by any person regarding the cost of repairs is prohibited.

B. Based upon information provided by the construction industry, the insurance industry and nationally recognized sources, companies such as Simsol, Inc. and Xactware, Inc., compile construction pricing guidelines used in adjusting property losses. These guidelines reflect data from both the construction and insurance industries and the ranges take into consideration price differentials between geographic areas of the state. The parties shall use the current construction pricing guidelines compiled by these or similar reputable sources as the starting point in the dispute resolution process.

C. The guidelines referred to herein do not apply to any portion of repairs necessary to fulfill the insurer's contractual obligation to restore the insured residence to pre-hurricane condition where, as of the effective date of this rule, there is an executed repair contract to effectuate such repairs for an agreed price and the insurer has tendered full payment for the repair contract amount for those repairs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§4119. Post Mediation

A. Within five days of the conclusion of the conference the mediator shall file with the administrator a mediator's status report on Form DOI-HM-1 which is entitled *Disposition of Property Insurance Mediation Conference*, indicating whether or not the parties reached a settlement. Form DOI-HM-1 will be available from the administrator and is hereby incorporated in this rule by reference.

1. Mediation is non-binding unless all the parties specifically agree otherwise in writing.

2. If the parties reached a settlement, the mediator shall include a copy of the settlement agreement with the status report.

3. However, if a settlement is reached, the insured shall have three business days within which he or she may rescind any settlement agreement provided that the insured has not cashed or deposited any check or draft disbursed to him or her for the disputed matters as a result of the conference.

B. If a settlement agreement is reached and is not rescinded, it shall act as a release of all specific claims that were presented in the conference. Any additional claims under the policy shall be presented a separate claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§4121. Non-Participation in Mediation Program

A. If the insured decides not to participate in this claim resolution process or if the parties are unsuccessful at resolving the claim, the insured may choose to proceed under the appraisal process set forth in the insured's insurance policy, by litigation, or by any other dispute resolution procedure available under Louisiana law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§4123. Departmental Authority to Designate

A. The department is authorized to designate an entity or person as its administrator to carry out any of the department's duties under this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§4125. Severability

A. If a court holds any section or portion of a section of this Emergency Rule or the applicability thereof to any person or circumstance invalid, the remainder of the Emergency Rule shall not be affected thereby.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§4127. Applicable Provisions

A. The applicable provisions of Title 49, Louisiana Administrative Procedure Act, shall govern issues relating to mediation that are not addressed in this rule. The provisions of this Emergency Rule shall govern in the event of any conflict with the provisions of Title 49, Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

James J. Donelon
Commissioner

0701#009

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Corrections Services

Inmate Mail and Publications
(LAC 22:I.313)

In accordance with the provisions of the Administrative Procedure Act (APA), R.S. 49:950 et seq., the Department of Public Safety and Corrections hereby determines that it is necessary to adopt the following by Emergency Rule, amending in its entirety LAC 22:I.313, entitled *Correspondence and Packages: Adult Inmates*, to be titled *Inmate Mail and Publications*, and that for the subsequent reasons failure to adopt the Emergency Rule amendments will result in imminent peril to the public health, safety and welfare.

The APA requires, unless a Rule is promulgated as an emergency rule, a period of approximately 100 days between the filing of the initial Notice of Intent and the effective date of the Rule. Unless the department is able to proceed immediately, it is uncertain that the department's goals for guaranteeing the public safety will be met. R.S. 15:821 states: "The functions of the department shall comprise administrative functions of the state now or hereafter authorized by law to be exercised in relation to the administration, management and operation of all state institutions for the care, custody and correction of persons sentenced for felonies or misdemeanors." As statutorily mandated for the care of persons incarcerated within the department, it is bestowed upon me as secretary to defend the stability of the department when there is an imminent threat, which impacts the public health, safety and welfare of all citizens.

Correspondence and Packages: Adult Inmates was adopted by the department and published in the *Louisiana Register*. It became effective March 2003. (LAC 29:360) The regulation was enacted to establish the secretary's policy regarding the receipt of mail and packages at all adult institutions of the department. For the foregoing reasons, the department has determined that the adoption of an Emergency Rule for implementation of the amendment of "Inmate Mail and Publications", formally entitled

"Correspondence and Packages: Adult Inmates", is necessary and hereby provides notice of its declaration of emergency.

In the Criminal Justice Newsletter dated October 1, 2006, the Justice Department's Office of the Inspector General (OIG) found that the Federal Bureau of Prisons had not adequately monitored the mail of inmates. The OIG report states that "the threat remains that terrorist and other high-risk inmates can use mail and verbal communications to conduct terrorist or criminal activities while incarcerated." In March 2005, NBC News reported that three convicted terrorists, incarcerated for their roles in the 1993 World Trade Center bombing, had communicated with extremists by sending approximately 90 letters from within prison walls. This included letters to the alleged leaders of groups linked to the March 2004 attacks on commuter trains in Madrid.

Other articles recently published regarding the new Black Panther Party demonstrate their propensity towards violence. On October 4, 2006, the Daily Iberian published a report regarding a rally held by the New Black Panther Party in New Iberia. The rally was in response to the use of tear gas by Sheriff's deputies to break up a crowd of approximately 500 people gathered on the street following the Louisiana Sugar Cane Festival. In the article, the Reverend Raymond Brown, state chairman of the New Black Panther Party, was quoted saying "If I get a call that they gas some more people, we're coming here. We're going to take over these streets." Brown then explained how the Black Panthers would retaliate, "If you really want a confrontation, call the Black Panther Party. We study paramilitary maneuvers. We know how to use weapons of warfare." Domestic terrorist ideology cannot be allowed to infiltrate our prison system or emanate from our prison system.

The aforementioned examples are just a few of the imminent perils to the public health, safety and welfare that exist in today's criminal justice system. This proposed regulation amends the department's policy that inmates may communicate with persons or organizations subject to the limitations necessary to protect legitimate penological objectives, (including but not limited to deterrence of crime, rehabilitation of inmates, maintenance of internal/external security of an institution, or maintenance of an environment free of sexual harassment), to prevent the commission of a crime, or to protect the interest of crime victims.

For the foregoing reasons, the department has determined that adoption of the Emergency Rule "Inmate Mail and Publications" is necessary and failure to adopt the rule on an emergency basis will impact the public's health, safety and welfare. In addition, the department hereby adopts this Emergency Rule effective January 5, 2007, in accordance with R.S. 49:953B, to be effective for a period of 120 days or until the final Rule change is promulgated, whichever occurs first.

Interested parties may submit written comments to Melinda L. Long, Attorney for the Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804-9304. A copy of this emergency rule is available for review by interested parties at Department of Corrections Headquarters Office, 504 Mayflower Street, Baton Rouge, LA.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT
Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

§313. Inmate Mail and Publications

A. Purpose. To establish the secretary's policy regarding inmate mail privileges, including publications, at all adult institutions.

B. Applicability. Chief of operations, assistant secretary, regional wardens, and wardens. It is each warden's responsibility to implement this regulation and convey its contents to the inmate population and affected employees.

C. Notice. Staff at each reception and diagnostic center or unit handling initial reception and diagnostic functions shall inform each inmate in writing promptly after arrival of the department's policy for handling of inmate mail, utilizing the Notification of Mail Handling Form (Attachment A.) This form will be filed in the inmate's record.

1. The current inmate population in DPS&C facilities is required to complete Attachment A upon the issuance of this revision to department regulations.

2. Pending full implementation of the canteen/package initiative, institutions are authorized to follow the existing regulation concerning packages.

D. Definitions

DPS&C Facility—includes, for the purpose of this regulation, state operated prison facilities, Winn Correctional Center and Allen Correctional Center.

Farm Mail Correspondence—inmate to inmate mail when housed at the same institution.

Indigent Inmates—those who do not have sufficient funds in the appropriate account(s) at the time of their request for indigent services and/or supplies to fully cover the cost of the requested services or supplies.

Nudity—pictorial depiction of buttocks, genitalia or female breasts (with the nipple or areola exposed).

Privileged Correspondence—mail to or from:

- a. identifiable courts;
- b. identifiable prosecuting attorneys;
- c. identifiable probation and parole officers, Parole Board and Pardon Board;
- d. state and local executive officers;
- e. identifiable attorneys;
- f. secretary, deputy secretary, chief of staff, undersecretary, assistant secretary, other officials and administrators of grievance systems of the department;
- g. local, state, or federal law enforcement agencies and officials.

Publication—book, booklet, pamphlet, or similar document, or a single issue of a magazine, periodical, newsletter, newspaper, magazine/ newspaper clipping, article printed from the internet, plus other materials addressed to a specific inmate such as advertising brochures, flyers, and catalogs.

Sexually Explicit Features—the publication contains depictions of nudity or sexually explicit conduct on a routine or regular basis or promotes itself based upon such

depictions in the case of individual one-time issues. A publication will not be prohibited solely because it contains pictorial nudity that has a medical, educational or anthropological purpose.

Sexually Explicit Material—any book, pamphlet, magazine, or printed matter however reproduced, which contains any picture, photograph, drawing or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct, sadomasochistic abuse, bestiality and homosexuality. Explicit sexual material also includes that which contains detailed verbal descriptions or narrative accounts of deviant sexual behavior. (A publication will not be prohibited solely because it contains pictorial nudity that has a medical, educational or anthropological purpose).

E. Policy. It is the secretary's policy that inmates may communicate with persons or organizations subject to the limitations necessary to protect legitimate penological objectives, (including but not limited to deterrence of crime, rehabilitation of inmates, maintenance of internal/external security of an institution, or maintenance of an environment free of sexual harassment), to prevent the commission of a crime, or to protect the interests of crime victims.

F. Inmate Correspondence. Inmates may write and receive letters subject to the following provisions.

1. Frequency. There shall be no limit placed on the number of letters an inmate may write or receive at personal expense and no limit placed on the length, language, or content except when there is reasonable belief that limitation is necessary to protect public safety, or institutional order, including restrictions relative to what may be reasonably stored in space provided and security. Inmates in segregation can write and receive letters on the same basis as inmates in general population.

2. Timely Handling. All mail, incoming and outgoing, shall be handled without unjustified delay. Letters should generally not be held more than 48 hours. This does not prohibit the holding of mail for inmates who are temporarily absent from the institution and does not include weekends and holidays or emergency situations. When mail is received for an inmate who has been transferred to another institution or released, the institution where the mail is received should attempt to forward the mail to him. The collection and distribution of mail is never to be delegated to an inmate. Mail will be given directly to the receiving inmate by an employee.

3. Correspondence. An inmate may write to anyone except:

a. victim of any criminal offense for which the inmate has been convicted or for which disposition is pending, except in accordance with specific procedures established by the warden in conjunction with the Crime Victims Services Bureau;

b. any person under the age of 18 when the person's parent or guardian objects verbally or in writing to such correspondence;

c. any person whom the inmate is restrained from writing to by court order;

d. any person who has provided a verbal or written request to not receive correspondence from an inmate;

e. any other person, when prohibiting such correspondence is generally necessary to further the substantial interests of security, order, or rehabilitation.

4. Costs of Correspondence. Each inmate shall pay personal mailing expenses, except an indigent inmate. An indigent inmate shall have access to postage necessary to send two personal letters per week, postage necessary to send out approved legal mail on a reasonable basis and basic supplies necessary to prepare legal documents. A record of such access shall be kept and the indigent inmate's account shall reflect the cost of the postage and supplies as a debt owed in accordance with department regulations. Stationary, envelopes and stamps shall be available for purchase in the canteen.

5. Outgoing General Correspondence and Farm Mail

a. Review, Inspection and Rejection. Outgoing general correspondence and farm mail shall not be sealed by the inmate and may be read and inspected by staff. The objectives to be accomplished in reading outgoing mail differ from the objectives of inspection. In the case of inspection, the objective is primarily to detect contraband. The reading of mail is intended to reveal, for example, escape plots, plans to commit illegal acts, or plans to violate institution rules or other security concerns. Outgoing general correspondence and farm mail may be restricted, confiscated, returned to the inmate, retained for further investigation, referred for disciplinary proceeding or forwarded to law enforcement officials, if review discloses correspondence or materials which contain or concern:

i. the transport of contraband in or out of the facility;

ii. plans to escape;

iii. plans for activities in violation of facility or department rules;

iv. information which, if communicated, would create a clear and present danger of violence and physical harm to a human being;

v. letters or materials written in code or a foreign language when the inmate understands English, (unless the warden or designee determines that the recipient is not fluent in English);

vi. mail which attempts to forward unauthorized correspondence to a third party;

vii. threats to the safety and security of staff, other inmates or the public, facility order or discipline or rehabilitation, (including racially inflammatory material);

viii. sexually explicit material;

ix. other general correspondence for which rejection is reasonably related to a legitimate penological interest.

b. Notice of Rejection. The inmate sender shall be notified within three working days, in writing, of the correspondence rejection and the reason therefore on the Incoming/Outgoing General Correspondence and Farm Mail Notice of Rejection form (Attachment B). Any further delay in notification will be based on ongoing investigation which would be compromised by notification. Rejections are appealable through the Administrative Remedy Procedure.

c. Limitations on Restrictions. Any restrictions imposed on outgoing general correspondence and farm mail shall be unrelated to the suppression of expression and may

not be restricted solely based on unwelcome or unflattering opinions. Communication of malicious, frivolous, false, and/or inflammatory statements or information, the purpose of which is reasonably intended to harm, embarrass, or intimidate an employee, visitor, guest or inmate will be rejected. This shall not apply to information and/or statements communicated for the express purpose of obtaining legal assistance.

d. Procedures for Mailing. Outgoing general correspondence and farm mail shall be inserted into the envelope and left unsealed by the inmate. All outgoing correspondence shall include:

- i. a complete legible name and address of the party the correspondence is being sent to;
- ii. the inmate's name, DOC number, housing unit, and the address of the institution which shall be written or typed on the upper left hand corner of the envelope. Drawings, writing, and marking on envelopes, other than return and sending address, are not permitted. All outgoing general correspondence shall be stamped in the mailroom to indicate it originates in a correctional institution.

6. Incoming General Correspondence

a. Review, Inspection, and Rejection. All incoming general correspondence must contain the return address of the sender and the name and DOC number of the inmate. All mail to inmates must indicate that the sender is aware that the intended recipient is an inmate. All incoming general correspondence shall be opened and inspected for contraband, cash, checks, and money orders and is subject to being read. Any stick on label or stamp may be removed if it appears to contain contraband. All incoming general correspondence may be rejected if such review discloses correspondence or material(s) which would reasonably jeopardize legitimate penological interests, including, but not limited to, material(s) which contain or concern:

- i. the transport of contraband in or out of the facility;
- ii. plans to escape;
- iii. plans for activities in violation of facility or department rules;
- iv. plans for criminal activity;
- v. violations of this regulation or unit rules;
- vi. letters or materials written in code;
- vii. threats to the safety and security of staff, other inmates, or the public, facility order, or discipline, or rehabilitation, (including racially inflammatory material);
- viii. sexually explicit material;
- ix. greeting cards larger than 8" x 10" and greeting cards containing electronic or other non-paper parts, cards constructed in such a way as to permit concealment of contraband;
- x. other general correspondence for which rejection is reasonably related to a legitimate penological interest.

(a). Incoming general correspondence containing any of the foregoing may be restricted, confiscated, returned to the sender, retained for further investigation, referred for disciplinary proceedings or forwarded to law enforcement officials.

b. Notice of Rejection. The inmate shall be notified within three working days, in writing, of the correspondence rejection and the reason therefore on the Incoming/Outgoing

General Correspondence and Farm Mail Notice of Rejection form (Attachment B). Any further delay in notification will be based on ongoing investigation which would be compromised by notification. Rejections are appealable through the Administrative Remedy Procedure.

7. Monetary Remittances

a. Incoming. Funds cannot be sent to inmates from other inmates or the families of other inmates. Funds cannot be sent to inmates from ex-inmates or their families, or employees and their families, except to purchase hobbycraft items properly supported by a hobbycraft agreement. Funds cannot be sent to inmates from unidentifiable sources. Exceptions to the above are only allowed with prior approval of the warden.

i. Money from permissible sources may be accepted in the following forms:

- (a). postal, bank, or commercially issued money orders;
- (b). government checks;
- (c). bank cashier checks;
- (d). checks drawn on federal, state, and local governments, political subdivisions, or public officials;
- (e). checks drawn on reputable commercial accounts;
- (f). Automated Clearing House (ACH) transfers generated by authorized vendors approved by the secretary, such as Western Union.

ii. Money will not be accepted in the following forms:

- (a). cash received in the mail will be returned to the sender via regular or certified mail or agency check (type dependent on the amount of cash to be mailed);
- (b). personal checks received in the mail will be returned to the sender via regular mail;
- (c). checks payable to multiple parties will be returned to the sender via regular mail. (If approved by the warden or designee, the inmate may endorse the check prior to its return).

b. Upon discovery of cash, personal or multiple party checks in the mail, the inmate will be sent a Monetary Remittances Notice of Rejection form (Attachment C) within three working days describing the contents of the mail, the date of its receipt and advising that he has seven working days to provide return postage. If return postage is not provided within seven working days, the postage will be provided by the unit. The inmate's banking account will be charged if funds are available. If funds are not available, a debt owed will be established pursuant to department regulations.

8. Identification of Privileged Correspondence. It is the responsibility and duty of institutional staff to verify the legitimacy of the official listed on the envelope. For purposes of this regulation, "identifiable" means that the official or legal capacity of the addressee is listed on the envelope and is verifiable. If not, then the letter is to be treated as general correspondence and an appropriate inquiry made into the inmate's intent in addressing the envelope as privileged mail.

9. All outgoing privileged correspondence shall include:

- a. a complete legible name and address of the party the correspondence is being sent to;

b. the inmate's name, DOC number, housing unit, and the address of the institution on the upper left hand corner of the envelope. Drawings, writing, and marking on envelopes, other than return and sending address, are not permitted. All outgoing privileged correspondence shall be stamped in the mailroom to indicate it originates in a correctional institution.

i. Outgoing privileged correspondence may be posted sealed, and will not be opened and inspected without express authorization from the warden or deputy warden as specified in Paragraph F.11.

10. Incoming Privileged Correspondence. All incoming privileged correspondence must contain the return address of the sender and the name and DOC number of the inmate. All incoming privileged correspondence shall be opened in the presence of the inmate to whom it is addressed and inspected for the presence of cash, checks, money orders and contraband and to verify as unobtrusively as possible, that the correspondence does not contain material that is not entitled to the privilege. It may be opened and inspected outside the inmate's presence in the circumstances outlined in Paragraph F.11 of this Section.

a. Inspection and Rejection. When, in the course of inspection, cash, checks, or money orders are found, they shall be removed and forwarded to the business office who will verify the legitimacy of the transaction in accordance with department regulations.

b. If material is found that does not appear to be entitled to the privilege or if any of the circumstances outlined in Paragraph F.11 exist, the mail may be restricted, confiscated, returned to sender, retained for further investigation, referred for disciplinary proceedings or forwarded to law enforcement officials.

c. Notice of Rejection. The inmate shall be notified within three working days, in writing, of the correspondence rejection and the reason therefore on the Privileged Correspondence Notice of Rejection form (Attachment D) describing the reason for the rejection and advising that he has seven working days to determine the disposition of the correspondence. Rejections are appealable through the Administrative Remedy Procedure.

d. Accidental Opening. If privileged correspondence is opened accidentally, outside the presence of the inmate, the envelope shall be immediately stapled or taped closed and the envelope marked "Accidentally Opened" along with the date and employee's initials. An unusual occurrence report will be completed.

11. Mail Precautions. The wardens and deputy wardens are authorized to open and inspect incoming and outgoing privileged mail outside the inmate's presence in the following circumstances:

a. letters that are unusual in appearance or appear different from mail normally received or sent by the individual or public entity;

b. letters that are of a size or shape not customarily received or sent by the individual or public entity;

c. letters that have a city and/or state postmark that is different from the return address;

d. letters that are leaking, stained, or emitting a strange or unusual odor or have a powdery residue;

e. when reasonable suspicion of illicit activity has resulted in a formal investigation and such inspection has been authorized by the secretary or designee.

12. Inmate Organizations. Inmate organizations must pay the postage costs for all of their outgoing mail. All outgoing mail must be approved by the inmate organization sponsor.

G. Procedures for Publications

1. Publications (see definition in Subsection D.) may be read and inspected to discover contraband and unacceptable depictions and literature. Unless otherwise provided by the rules of the institution, all printed matter must be received directly from the publisher. Multiple copies of publications for any one individual inmate are not allowed. Samples inserted in publications will be removed prior to delivery. Upon the effective date of the canteen/package initiative, books must be purchased through the canteen and will no longer be allowed to be sent through the mailroom.

2. Newspaper and magazine clippings (xerox copies allowed) as well as articles printed from the internet are considered publications for the purpose of review pursuant to this regulation. However, they are not required to originate from the publisher. A limit of five clippings/articles may be received within a piece of regular correspondence and the quantity received may be further limited by what can be reasonably reviewed for security reasons in a timely manner. Multiple copies of the same clippings/articles for any one individual inmate are not allowed. Inclusion of clippings/articles in regular correspondence may delay the delivery.

3. Refusal of Publications. Printed material shall only be refused if it interferes with legitimate penological objectives (including but not limited to deterrence of crime, rehabilitation of inmates, maintenance of internal/external security of an institution or maintenance of an environment free of sexual harassment), or if the refusal is necessary to prevent the commission of a crime or to protect the interests of crime victims. This would include but not be limited to the following described categories:

a. Security issues:

i. maps, road atlas, etc. that depict a geographic region that could reasonably be construed to be a threat to security;

ii. writings that advocate, assist or are evidence of criminal activity or facility misconduct;

iii. instructions regarding the ingredients or manufacturing of intoxicating beverages or drugs;

iv. information regarding the introduction of, or instructions in the use, manufacture, storage, or replication of weapons, explosives, incendiaries, escape devices or other contraband;

v. instructs in the use of martial arts;

vi. racially inflammatory material or material that could cause a threat to the inmate population, staff, and security of the facility;

vii. writings which advocate violence or which create a danger within the context of a correctional facility.

b. Sexually Explicit Material. It is well established in corrections that sexually explicit material causes

operational concerns. It poses a threat to the security, good order and discipline of the institution and can facilitate criminal activity. Examples of the types of behavior that result from sexually explicit material include non-consensual sex, sexual molestation of other inmates or staff, masturbation or exposing themselves in front of staff and inappropriate touching or writing to staff or other forms of sexual harassment of staff and/or inmates.

i. Sexually explicit material can portray women (or men) in dehumanizing, demeaning and submissive roles, which, within an institutional setting, can lead to disrespect and the sexual harassment of female (or male) correctional staff. Lack of respect and control in dealing with inmates can endanger the lives and safety of staff and inmates.

ii. The viewing of sexually explicit material undermines the rehabilitation of offenders as it can encourage deviant, criminal sexual behavior. Additionally, once sexually explicit material enters an institution, it is impossible to control who may view it. When viewed by an incarcerated sex offender, it can undermine or interrupt rehabilitation efforts.

iii. Publications that depict nudity or sexually explicit conduct on a routine or regular basis or promotes itself based upon such depictions in the case of individual one time issues will not be allowed.

c.i When screening publications for acceptability, the following categories shall be utilized:

(a). Category 1—presumption of non-acceptability;

(b). Category 2—those that need to be reviewed on a case-by-case basis prior to allowing them to be delivered to the recipient and subject to review by the regional warden;

(c). Category 3—presumption of acceptability.

ii. Publications can be added, deleted or moved from one category to another at the discretion of the secretary at any time.

iii. See Attachments E, F, and G for the current listing of publications in each category. When an institution receives a Category 2 publication which has not already been ruled on by the regional wardens, the mailroom will send the inmate a Notice of Pending Review of Publication form (Attachment H) and forward the publication to their regional warden who will determine acceptability. When an institution suspends delivery of an issue of a Category 3 publication, the regional warden is notified. The mailroom will send the inmate a Notice of Pending Review of Publication Form (Attachment H). The regional wardens will determine if the publication should be moved to Category 2. When magazines are received that are not currently listed, the regional warden will be notified.

d. Procedures When Publication is Refused. The inmate shall be notified within three working days of the refusal and the reason therefore on the Publications Notice of Rejection Form (Attachment I) describing the reason for the rejection and advising that he has seven working days to determine the publication's disposition. Rejections are appealable through the administrative remedy procedure. The institution should retain possession of the disputed item(s) until the exhaustion of administrative and judicial review.

H. Procedures for Photographs, Digital or Other Images

1. Inmates will not be allowed to receive or possess photographs or digital or other images that interfere with legitimate penological objectives (including but not limited to deterrence of crime, rehabilitation of inmates, maintenance of internal/external security of an institution, or maintenance of an environment free of sexual harassment), or to prevent the commission of a crime or to protect the interests of crime victims. This includes photographs, digital or other images which expose the genitals, genital area (including pubic hair), anal area, cheeks of the buttocks or female breasts (or breasts which are designed to imitate female breasts). These areas must be covered with garments which cannot be seen through.

2. Lingerie will not normally be acceptable whether transparent or not. Swimwear will only be acceptable if the overall context of the picture is reasonably related to activities during which swimwear is normally worn. Suggestive poses alone may be sufficient cause of rejection regardless of the type of clothing worn.

3. Each institution shall develop a procedure that serves to reasonably restrict an inmate's possession of multiple copies of the same photograph or digital or other image.

4. Hard backed and laminated photographs or digital or other images that are subject to alteration or modification may be rejected.

5. The term "photograph" includes other images such as those created by a digital imaging device or e-mails.

6. The inmate shall be notified within three working days, in writing, of the photograph rejection and the reason therefore on the Photographs Notice of Rejection form (Attachment J) describing the reason for the rejection and advising that he has seven working days to determine the photograph's disposition. Rejections are appealable through the Administrative Remedy Procedure.

I. Appendices

1. Attachment A

Louisiana Department of Public Safety and Corrections

NOTIFICATION OF MAIL HANDLING

I. GENERAL CORRESPONDENCE TO BE RETURNED TO THE POSTAL SERVICE

I have read or had read to me, the foregoing notice regarding mail. I do not want my general correspondence opened and read; therefore, I request that the Department of Public Safety and Corrections return my general correspondence to the postal service. I understand that privileged correspondence will be delivered to me.

Printed Name DOC No. Date

Signature

II. GENERAL CORRESPONDENCE TO BE OPEN, READ AND DELIVERED

I have read or had read to me, the foregoing notice regarding mail. I wish to receive my general correspondence. I understand that the Department of Public Safety and Corrections may open and read my general correspondence. I also understand that privileged correspondence will be delivered to me.

Printed Name DOC No. Date

Signature

REFUSAL TO SIGN

Inmate _____, _____ (DOC No.), refused to sign this form and was advised by me that the Department of Public Safety and Corrections retains the authority to open and read all general correspondence. The inmate was also advised that refusing to sign this form will be interpreted as an indication that the inmate does not wish to receive general correspondence. Such correspondence will be returned to the postal service.

 Staff member signature Date file Inmate

2. Attachment B

**Louisiana Department of Public Safety and Corrections
 Incoming/Outgoing General Correspondence and Farm Mail**

NOTICE OF REJECTION

 Name DOC No. Location

Your correspondence to/from _____ has been:

- _____ Restricted
- _____ Confiscated
- _____ Returned to Sender
- _____ Retained for further investigation
- _____ Referred for disciplinary proceedings
- _____ Forwarded to law enforcement officials

Because review disclosed information concerning:

- _____ The transport of contraband in or out of the facility
- _____ Plans to escape
- _____ Plans for activities in violation of facility or Department rules
- _____ Plans for criminal activity
- _____ Information which, if communicated, would create a clear and present danger of violence and physical harm to a human being
- _____ Letters or materials written in code or foreign language
- _____ Mail which attempts to forward unauthorized correspondence to a third party
- _____ Threats to the safety and security of staff, other inmates, or the public, facility order, or discipline, rehabilitation or racially inflammatory material
- _____ Sexually explicit material
- _____ Information which would jeopardize legitimate penological interests
- _____ Procedures for mailing were not followed
- _____ Greeting cards larger than 8" x 10" or containing electronic or other non-paper parts
- _____ Other

 Mailroom Officer's Signature Date

3. Attachment C

**Louisiana Department of Public Safety and Corrections
 Monetary Remittances**

NOTICE OF REJECTION

 Name DOC No. Location

The mail sent to you on _____ by _____ contained funds that are not permissible under Department Regulation No. C-02-009 "Inmate Mail and Publications." The funds are not allowed because:

- _____ Sent from another inmate, families of other inmates, ex-inmates or their families, employees or their families, or an identified source without prior approval from the Warden.
- _____ The money was not in an allowable form

- _____ Cash
- _____ Personal Check
- _____ Check payable to multiple parties

You will have seven working days to provide return postage, if return postage has not been provided within seven working days, the postage will be provided by the unit and your account will be charged. If funds are not available in your account, a debt owed will be established.

Postage Due _____

 Mailroom Officer's Signature Date

4. Attachment D

**Louisiana Department of Public Safety and Corrections
 Privileged Correspondence**

NOTICE OF REJECTION

 Name DOC No. Location

Your incoming/outgoing privileged correspondence from _____ has been:

- _____ Restricted _____ Retained for further investigation
- _____ Confiscated _____ Forwarded to law enforcement officials
- _____ Returned to Sender

For the following reason(s):

- _____ Legitimacy of the official listed on the envelope cannot be verified
- _____ Contains material that is not entitled to be privileged
- _____ Unusual in appearance or appears different from mail normally received or sent by the individual
- _____ Letters are of a size and shape not customarily received or sent by the individual
- _____ City and/or state postmark on the letter is different from the return address
- _____ The letter is leaking, stained, or emitting a strange or unusual odor or has a powdery residue
- _____ Suspicion of illicit activity has resulted in a formal investigation and such inspection has been authorized by the Secretary or designee
- _____ Other _____

 Mailroom Officer's Signature Date Postage Due

If you wish to have the rejected item removed and destroyed with the permitted letter sent to you, sign below:

 Inmate's Signature and DOC No. Witnessed By: (Officer's Signature)

If you wish to mail the rejected item to sender and have the permitted letter sent to you, sign below and send required postage requested.

 Inmate's Signature and DOC No. Witnessed By: (Officer's Signature)

This form must be returned to the mailroom with disposition within seven working days.

DO NOT WRITE BELOW THIS LINE (FOR MAILROOM USE ONLY)

Letter to inmate Date _____
Rejected item(s) returned per inmate's request Date _____
Rejected item(s) destroyed per inmate's request Date _____

Mailroom Officer's Signature Date

5. Attachment E
Louisiana Department of Public Safety and Corrections

CATEGORY 1 PUBLICATIONS

Examples of publications, which, as currently published, feature nudity and/or sexually explicit material or present a clear threat to the security of the institution:

- Barely Legal
- Bludaman
- Hustler
- Penthouse
- Playboy
- Playgirl
- Purely 18

6. Attachment F
Louisiana Department of Public Safety and Corrections

CATEGORY 2 PUBLICATIONS

Examples of publications that must be viewed on a case by case basis:

- American Institute of Theology
- Church of Jesus Christ Christian Materials
- Final Call
- National Vanguard
- The Defenestrator

7. Attachment G
Louisiana Department of Public Safety and Corrections

CATEGORY 3 PUBLICATIONS

Examples of publications, which, as currently published, have a presumption of acceptability:

- Advocate
- Airbrush Action
- American Artist
- American Cowboy
- American Photo
- Architectural Digest
- Art News
- Art of the West
- Artist's Magazine
- Arts & Antiques
- Better Homes and Gardens
- Black Enterprise
- Black Men
- Blender
- Bon Appetit
- Business 2.0
- Car and Driver
- Cargo
- Complex
- Cook's Illustrated
- Cosmopolitan
- Country Weekly
- Details
- Discover
- Easy Rider
- Ebony
- Entertainment Weekly
- Entrepreneur
- ESPN
- Esquire
- Essence
- Family Circle
- Field & Stream
- Fitness

- Flex
- For Him Magazine (FHM)
- Fortune
- Fur, Fish & Game
- Globe
- Gourmet
- Guideposts
- Hot Rod
- Hot Rod Bikes
- House & Garden
- Interview
- Jet
- King
- Kiplinger's Personal Finance
- Louisiana Game & Fish
- Louisiana Sportsman
- Maxim
- Men's Health
- Men's Fitness
- Military Heritage
- Motor Trend
- Mustangs & Fast Foods
- Muscle & Fitness
- National Geographic
- Newsweek
- North American Whitetail
- Oprah
- OUT
- Outdoor Life
- PDN
- People
- Peterson's Hunting
- Popular Mechanics
- Popular Science
- POZ
- Predator Extreme
- Premiere
- Prison Legal News (PLN)
- Razor
- Reader's Digest
- Redbook
- Rolling Stone
- Savoy
- Science News
- Scientific American
- Scratch
- Shape
- Sista to Sista
- Slam
- Smithsonian
- Smooth
- Source
- Southern Sporting
- Southwest Art
- Spin
- Sporting News
- Sports Illustrated (including swimsuit issue)
- Star
- Street Trucks
- Stuff
- The National Enquirer
- The New Yorker
- The Pastel Journal
- The Source
- Thoroughbred Times
- Tiger Rag
- Time
- Truck Trend
- T.V. Guide
- US
- U.S. News and World Report
- Vanity Fair
- Vibe
- Vibe Vixen
- W
- Wired
- Writer's Digest
- WW Raw

8. Attachment H
Louisiana Department of Public Safety and Corrections
Publication

NOTICE OF PENDING REVIEW

Printed Name DOC No. Location
The publication received in the mailroom on ____
Name of Publication Date
has been forwarded to the Regional Warden for review and
determination of acceptability.
Mailroom Officer Date
Do Not Write Below This Line (Mailroom Use Only)
Notice sent to inmate Date
Forwarded to Regional Warden Date
Decision from Regional Warden received Date
Publication forwarded to inmate Date
Notice of Publication Rejection sent Date

9. Attachment I
Louisiana Department of Public Safety and Corrections
Publications

NOTICE OF REJECTION

Name DOC No. Location

The publication, _____, was received
on _____ and was rejected for the following reason(s):

- _____ Printed matter must be received directly from the publisher
- _____ Contains maps, road atlas, etc. that depict a geographic region
that could be reasonably construed to be a threat of security
- _____ Contains writing that advocates, assists, or are evidence of
criminal activity or facility misconduct
- _____ Contains instruction regarding the ingredients or manufacturing
of intoxicating beverages or drugs
- _____ Contains information regarding the introduction of, or
instructions in the use, manufacture, storage, or replication of
weapons, explosives, incendiaries, escape devises or other
contraband
- _____ Instructs in the martial arts
- _____ Contains racially inflammatory material
- _____ Contains writings which advocate violence or which create a
danger within the context of a correctional facility.
- _____ Contains nudity or sexually explicit material

Mailroom Officer's Signature Date Postage Due

THIS FORM MUST BE COMPLETED AND RETURNED TO THE
MAILROOM WITH DISPOSITION WITHIN SEVEN WORKING DAYS.
IF YOU WISH TO RETURN TO SENDER, "REFUSED" WILL BE
STAMPED ON THE PUBLICATION AND POSTAGE WILL NOT BE
REQUIRED. THE PUBLICATION WILL BE RETURNED TO SENDER
via 3rd CLASS MAIL. IF YOU WISH TO MAIL HOME, PLEASE
PROVIDE POSTAGE AND THE ADDRESS. IT IS YOUR
RESPONSIBILITY TO CONTACT THE PUBLISHER TO CANCEL
YOUR SUBSCRIPTION. THIS IS THE ONLY NOTICE YOU WILL
RECEIVE.

- _____ I wish to return to sender
- _____ I wish to destroy publication
- _____ I wish to mail home to the following address: _____

Inmate's Signature and DOC No. Witnessed By:
(Officer's Signature)

DO NOT WRITE BELOW THIS LINE (FOR MAILROOM USE
ONLY)

Letter to inmate Date _____
Rejected item(s) returned per inmate's request Date _____
Rejected item(s) destroyed per inmate's request Date _____

Mailroom Officer's Signature Date

10. Attachment J
Louisiana Department of Public Safety and Corrections
Photographs

NOTICE OF REJECTION

Name DOC No. Location

The mailroom has refused photographs for the following reason(s) in
accordance with Department Regulation No. C-02-009 "Inmate Mail and
Incoming Publications":

- _____ Exposed genitals _____ Lingerie
- _____ Expose genital areas _____ Suggestive poses
(pubic hair, anal area, buttocks) _____ Hard backed
Genitals or genital areas are _____ photograph(s)
covered by transparent materials _____
- _____ Swimwear worn during _____ Multiple copies of same
activities in which swimwear is _____ photograph
not normally worn _____ Security threat group
- _____ Other _____

Mailroom Officer's Signature Date Postage Due

If you wish to have the rejected item removed and destroyed with the
permitted letter sent to you, sign below:

Inmate's Signature and DOC No. Witnessed By: (Officer's Signature)

If you wish to mail the rejected item to sender and have the permitted
letter sent to you, sign below and send required posted requested.

Inmate's Signature and DOC No. Witnessed By: (Officer's Signature)

If the letter had no return address or an incomplete address, you must fill
out a complete return address below if you wish this rejected item returned

This form must be returned to the mailroom with disposition within
seven working days.

DO NOT WRITE BELOW THIS LINE (FOR MAILROOM USE ONLY)

Letter to inmate Date _____
Rejected item(s) returned per inmate's request Date _____
Rejected item(s) destroyed per inmate's request Date _____

Mailroom Officer's Signature Date

AUTHORITY NOTE: Promulgated in accordance with R.S.
15:833(A), *Guajardo v. Esteile*, 580 F.2d 748 (5th Cir. 1978).

HISTORICAL NOTE: Promulgated by the Department of
Corrections, Office of Adult Services, LR 5:4 (January 1979),
amended LR 10:803 (October 1984), LR 11:360 (April 1985), LR
33:

Richard L. Stalder
Secretary

0701#016

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections State Uniform Construction Code Council

Uniform Construction Code
(LAC 55:VI.Chapters 1-11)

The Louisiana Department of Public Safety and Corrections, Louisiana State Uniform Construction Code Council hereby adopts the following Emergency Rules governing the implementation of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730.21 et seq. This Rule is being adopted in accordance with the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act. This Emergency Rule becomes effective on the date of the signature by the authorized representative of the Louisiana State Uniform Construction Council and shall remain in effect for the maximum period allowed by the APA, which is 120 days.

As a result of the widespread damage caused by Hurricanes Rita and Katrina, the Legislature enacted and mandated a state uniform construction code to promote public safety and building integrity. Since this new code goes into effect statewide on January 1, 2007, it was necessary for the Louisiana State Uniform Construction Code Council to promulgate rules in order to help clarify the building code officer registration process, the specific codes to be enforced, and the provisional registration periods for code enforcement officers. The council instituted the regular rulemaking process in August 2006, however, due to the various procedural delays, the rules are still in the rulemaking process and have not become final. Immediately adopting these administrative rules will greatly improve the facilitation of the intent of this legislation in mandating a statewide uniform construction code until the permanent rules are finalized.

Title 55 PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 1. Preliminary Provisions

§101. Request for Rule Change

A. Anyone petitioning the Undersecretary, Department of Public Safety, for the adoption of, or change of, any rule shall submit in writing to the Council Administrator at 8181 Independence Boulevard, Baton Rouge, LA 70806, an application containing the following basic information organized and captioned:

1. the name, address, telephone number and email address of the applicant;
2. a brief description of the facts supporting the applicant's request for the adoption of a rule or the change of a rule that has already been adopted;
3. suggested specific language or language setting forth the substance of the rule or rule change which is being requested;
4. an indication as to whether or not a public hearing is requested;
5. a copy of each and every document upon which the applicant bases his request for a rule or a citation of the information and where it can be easily obtained for review by this office.

B. Whenever the council administrator determines that a public hearing or public hearings should be held prior to the adoption of any rule or rule change, a notice of the meeting date and place and the agenda will be recorded in the *Louisiana Register*; however, whenever that is not possible, a copy of the meeting notice including the date, time, and place, and agenda of the meeting will be mailed to the official journals of the cities of Lafayette, Alexandria, Shreveport, Monroe, Lake Charles, Baton Rouge and New Orleans.

C. Within 90 days of the request for adoption of or change of a rule, the council administrator will notify the applicant and each individual who request a copy of either his denial of the application or notice of intent to adopt the requested rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

Chapter 3. Adoption of the Louisiana State Uniform Construction Code

§301. Louisiana State Uniform Construction Code

A. In accordance with the requirements set forth in R.S. 40:1730.28, effective, January 1, 2007, the following is hereby adopted as the Louisiana State Uniform Construction Code.

1. International Building Code, 2006 Edition, not including Chapter 1-Administration, Chapter 11-Accessibility, Chapter 27-Electrical and Chapter 29-Plumbing Systems. The applicable standards referenced in that code are included for regulation of construction within this state.

2. International Existing Building Code, 2006 Edition, not including Chapter 1-Administration, and the standards referenced in that code for regulation of construction within this state.

3. International Residential Code, 2006 Edition, not including Parts I-Administrative, V-Mechanical, VII-Plumbing and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. Appendix J, Existing Buildings and Structures, is also included for mandatory regulation. For purposes of this part, section R301.2.1.1 of the 2003 edition of the International Residential Code is hereby specifically adopted in lieu of the 2006 edition and shall be effective until January 1, 2008. Furthermore, IRC R301.1.1 (Design Criteria) shall be amended as follows and shall only apply to the International Residential Code:

- a. amendment of R301.2.1.1 (Design Criteria);
- b. item 6, the American Concrete Institute, *Guide to Concrete Masonry Residential Construction in High Winds Areas*, shall be added;
- c. item 7, Institute for Business and Home Safety, *Optional Code-plus Fortified for Safer Living*, shall be added;
- d. item 8, Federal Alliance for Safe Homes, *Optional Code-plus Blueprint for Safety*, shall be added.

4. International Mechanical Code, 2006 Edition, and the standards referenced in that code for regulation of construction within this state.

5. The Louisiana State Plumbing Code [Part XIV (Plumbing) of the State Sanitary Code] as amended by the state health officer acting through the Office of Public Health of the Department of Health and Hospitals. Nothing in this Part shall be construed so as to prevent the state health officer from enforcing Part XIV (Plumbing) of the State Sanitary Code, the enforcement of which is his statutory and regulatory responsibility.

6. International Fuel Gas Code, 2006 Edition, and the standards referenced in that code for regulation of construction within this state.

7. National Electrical Code, 2005 Edition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

Chapter 5. Enforcement of Louisiana State Uniform Construction Code

§501. General

A. Effective January 1, 2007, all municipalities and parishes shall enforce the Louisiana State Uniform Construction Code. Municipalities and parishes may establish agreements with other governmental entities or registered and certified third party providers to issue permits and enforce the state uniform construction code. No municipality or parish shall require that residential building plans for one and two family dwellings be prepared or stamped by a licensed architect or engineer if the dwelling falls within the prescriptive codes of the Louisiana State Uniform Construction Code, except as required by Chapter 12 of the Louisiana State Plumbing Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

§503. Farm or Recreational Structures

A. Definitions

1. For the purposes of these regulations the words defined in this Section have the following meaning.

Farm Structure—a structure which is constructed on a farm, other than a residence or structure attached to it, for use on the farm including, but not limited to barns, sheds and poultry houses.

Private Outdoor Recreational Structure—a hunting or fishing camp not used as a residence nor attached to a residence.

B. Exemptions to State Uniform Construction Code

1. The governing authority of a parish or municipality may not enforce the Louisiana State Uniform Construction Code pertaining to the construction or improvement of a farm structure or private outdoor recreational structure. For private outdoor recreational structures only, the property owner of record, in applying for an exemption, shall execute an affidavit attesting to the structure's exempt status. The affidavit shall be filed into the parish conveyance records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

Chapter 7. Certificates of Registration

§701. General

A. On and after January 1, 2007, no person shall practice as a code enforcement officer in this state unless registered with the Louisiana State Uniform Construction Code Council (council). A person desiring to be registered as a parish or municipality building code enforcement officer or a third party provider shall apply to the council for a Certificate of Registration. The applicant shall apply on the application form prescribed by the council. An applicant shall furnish satisfactory proof to the council of valid certification. A Certificate of Registration is valid for one year and expires on the last day of the month of issuance. Those possessing Certificates of Registration must timely renew their certificates in order to remain in good standing with the council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

§703. Classifications and Required Certifications for Municipal or Parish Building Code Enforcement Officers

A. General

1. In order to obtain a Certificate of Registration from the council for a particular classification, an individual must meet the following qualifications.

B. Definitions

Building Code Enforcement Officer (BCEO)—a person employed by a public entity who is primarily responsible for the overall inspection or enforcement of applicable building code requirements within the jurisdiction of the employer.

Building Official—the BCEO employed and charged by a public entity with the administration and enforcement of the Louisiana State Uniform Construction Code (LSUCC).

Inspector—a BCEO, who under the authority of the building official, is charged with the inspection of structures for compliance with his or her specialty classification(s) of the LSUCC.

Plans Examiner or Reviewer—a BCEO, who under the authority of the Building Official, is charged with the inspection of construction documents for compliance with his or her specialty classification(s) of the LSUCC.

Third-Party Provider (TPP)—any individual, entity or an individual employed by an entity contracted by a municipality, parish or licensed contractor to act in the capacity of a BCEO.

C. BCEO Registration Classifications/Requirements

1. General Classifications

a. *Building Official (BO)*—requirements; possess a current ICC Certified Building Official certificate or a current ICC Master Code Professional certificate and have two years experience as an architect, engineer, inspector, plans examiner, contractor or superintendent of construction or any combination of these. General classifications are not restricted and may enforce all classified specialties of the LSUCC.

2. Specialty Classifications

a. Commercial Inspectors

i. Commercial Building Inspector Requirements—possess a current ICC Commercial Building Inspector certificate.

ii. Commercial Electrical Inspector Requirements—possess a current ICC Commercial Electrical Inspector certificate.

iii. Commercial Mechanical Inspector Requirements—possess a current ICC Commercial Mechanical Inspector certificate.

iv. Commercial Plumbing Inspector Requirements—possess a current ICC Commercial Plumbing Inspector certificate.

v. Commercial Energy Requirements—shall be enforced by the Office of the State Fire Marshal.

b. Commercial and Residential Plan Examiners or Reviewers

i. Building Plans Examiner Requirements possess a current ICC Commercial Building Plans Examiner certificate.

ii. Electrical Plans Examiner Requirements—possess a current ICC Commercial Electrical Plans Examiner certificate.

iii. Mechanical Plans Examiner Requirements—possess a current ICC Commercial Mechanical Plans Examiner certificate.

iv. Plumbing Plans Examiner Requirements—possess a current ICC Commercial Plumbing Plans Examiner certificate.

v. Commercial Energy Requirements—shall be enforced by the Office of the State Fire Marshal.

c. Residential Inspectors

i. Residential Building Inspector Requirements—possess a current ICC Residential Inspector certificate.

ii. Residential Electrical Inspector Requirements—possess a current ICC Residential Electrical Inspector certificate.

iii. Residential Mechanical Inspector Requirements—possess a current ICC Residential Mechanical Inspector certificate.

iv. Residential Plumbing Inspector Requirements—possess a current ICC Residential Plumbing Inspector certificate.

v. Residential Energy Inspector Requirements—possess a current ICC Residential Energy Inspector/Plans Examiner certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.34(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

§705. Third Party Providers

A. General

1. A third party provider shall register with the council. Third party providers shall meet the requirements of the general or specialty classification(s) whichever applicable and as contracted with the parish or municipality. Furthermore, any individual employed by a third party provider who is also performing work for the parish or municipality, shall also be council certified.

B. Insurance

1. All third party providers shall carry at least \$100,000 in general liability insurance. Proof of valid and current insurance coverage must be provided to the council upon registration and renewal of registration.

C. Restrictions

1. Third party providers shall not provide plan review or inspections on projects of their own design and/or construction.

D. Code Enforcement Services for Non-Governmental Entities

1. Third party providers providing plan review services for non-governmental entities shall provide written copies of the plan review to the code enforcement officer of the municipality or parish prior to issuance of construction permits.

2. Where a third party provider provides services in a jurisdiction which has a building department, third party providers shall adhere to the permitting and inspection procedures of said jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.34(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

Chapter 9. Temporary Exemption to Certification Requirement

§901. Employment after January 1, 2007

A. Upon employment by a parish, municipality, or other political subdivision, an individual must be granted a provisional certificate of registration without certification by a recognized code organization or testing agency, provided that such individual is under the supervision of a registered code enforcement officer who is certified by the International Code Council. This provisional certificate of registration is valid for 12 months. Residential plan reviewers shall be granted an additional 12 month provisional certificate of registration commencing on the date of the first ICC residential plans examiner test. Thereafter, anyone renewing this Certificate of Registration shall satisfy the certification requirement(s) as set forth in §703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

§903. Employment prior to January 1, 2007

A. Certificates of Registration may be issued without certification by a recognized code organization or testing agency to building code enforcement officers already employed in code enforcement on January 1, 2007 only for the position and locality held at the time of registration. This registration is valid for three years for building officials and six months for building inspectors and plans reviewers. Additionally, inspectors and plan reviews who were employed by an authority having jurisdiction before July 1, 2006, and remain employed by that authority having jurisdiction, an additional 30 month provisional certificate or registration may be granted provided the individual can demonstrate an annual minimum of 3 continuing education units for a core discipline as require in §703. Thereafter, anyone renewing this Certificate of Registration shall satisfy the certification requirement(s) as set forth in §703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

§905. Third Party Providers

A. Third party providers obtaining a certificate of registration after January 1, 2007 shall be granted a 12 month provisional certificate of registration without certification by a recognized code organization. Additionally, effective January 1, 2007, third party providers who were registered with the Louisiana State Uniform Construction Code Council prior to July 1, 2006 shall be granted a provisional certificate of registration for up to 36 months. Thereafter, any third party provider renewing this Certificate of Registration shall satisfy the certification requirement(s) as set forth in §703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

Chapter 11. Disciplinary Proceedings

§1101. General

A. The council shall have the authority to suspend, revoke or deny renewal of Certificates of Registration upon any violation of R.S. 40:1730.21 et seq. after notice and proper hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

§1102. Informal Proceedings

A. Notice. If the council receives written information indicating that a person holding a Certificate of Registration (registrant) is violating or has violated any provision of R.S. 40:1730.21 et seq. or this Part, the council, after an investigation, may, in writing, order the person to immediately refrain from the conduct or violation.

B. Response. The registrant shall respond in writing to the council's informal notice within 10 days of receipt by providing the council with a written statement containing any information related to the allegations of the informal notice which would show compliance with all requirements for retention or renewal of his or her Certificate of Registration. In lieu of providing a written statement, the registrant may request an informal conference with the council administrator and council chair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

§1103. Formal Proceedings

A. Complaint. In the event that the matter is not resolved during the informal proceedings, the council shall file a formal complaint which then shall be forwarded to the registrant, via certified mail, to the address on file with the council.

B. Hearing. No hearing shall be conducted prior to 20 business days following the filing of the formal complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

§1105. Procedures

A. Hearings. All hearings conducted before the council or a designated committee shall be in accordance with the Administrative Procedure Act.

B. Notice. The hearing notice shall include:

1. a statement of the time, place and nature of the hearing;

2. a statement of the legal authority under which the hearing is to be had;

3. a reference to the particular sections of the statutes and rules involved;

4. a short plain statement of the matters asserted.

C. Opportunity shall be afforded to all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross examination as may be required for a full and true disclosure of the facts.

D. Unless precluded by law, informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order or default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

§1107. Decisions and Orders

A. A final decision or order adverse to a party in an adjudication proceeding shall be in writing. A final decision shall include findings of fact and conclusions of law. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Parties shall be notified by mail of the decision or order. A copy of the decision or order shall be sent via certified mail forthwith to each party and, if applicable, to his attorney of record. The parties by written stipulation may waive compliance with this Section. The council, in the event there is no contest, may eliminate compliance with this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

§1109. Rehearings

A. A decision or order in a case of adjudication are subject to rehearing, reopening, or reconsideration by the council, within ten days from the date of its entry. The grounds for such action shall be either that:

1. the decision or order is clearly contrary to the law and the evidence;

2. the party has discovered since the hearing evidence important to the issues which he could not have with due diligence obtained before or during the hearing;

3. there is a showing that issues not previously considered ought to be examined in order properly to dispose of the matter; or

4. there is other good ground for further consideration of the issues and the evidence in the public interest.

B. The petition of a party for rehearing, reconsideration, or review, and the order of the council granting it, shall set forth the grounds which justify such action. On reconsideration, reopening, or rehearing, the matter may be heard by the council, or it may be referred to a subordinate committee. The hearing shall be confined to those grounds upon which the reconsideration, reopening, or rehearing was ordered. If an application for rehearing shall be timely filed, the period within which judicial review, under the applicable statute, must be sought, shall run from the final disposition of such application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

§1111. Judicial Review of Adjudication

A. A registrant who is aggrieved by a final decision or order in an adjudication proceeding is entitled to judicial review whether or not he has applied to the agency for rehearing, without limiting, however, utilization of or the scope of judicial review available under other means of review, redress, relief, or trial de novo provided by law. A preliminary, procedural, or intermediate action or ruling is immediately reviewable if review of the final council decision would not provide an adequate remedy and would inflict irreparable injury.

B. Proceedings for review may be instituted by filing a petition in the District Court of East Baton Rouge Parish within thirty days after mailing of notice of the final decision or, if a rehearing is requested, within 30 days after the decision thereon. Copies of the petition shall be served upon the council and all parties of record.

C. The filing of the petition does not itself stay enforcement of the council decision. The council may grant, or the reviewing court may order, a stay ex parte upon appropriate terms, relative to professions and occupations. The court may require that the stay be granted in accordance with the local rules of the reviewing court pertaining to injunctive relief and the issuance of temporary restraining orders.

D. Within 30 days after the service of the petition, or within further time allowed by the court, the council shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

E. If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the council, the court may order that the additional evidence be taken before the council upon conditions determined by the court. The council may modify its findings and decision by reason of

the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

F. The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the council, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

G. The court may affirm the decision of the council or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

1. in violation of constitutional or statutory provisions;
2. in excess of the statutory authority of the agency;
3. made upon unlawful procedure;
4. affected by other error of law;
5. arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
6. not supported and sustainable by a preponderance of evidence as determined by the reviewing court. In the application of this rule, the court shall make its own determination and conclusions of fact by a preponderance of evidence based upon its own evaluation of the record reviewed in its entirety upon judicial review. In the application of the rule, where the council has the opportunity to judge the credibility of witnesses by first-hand observation of demeanor on the witness stand and the reviewing court does not, due regard shall be given to the agency's determination of credibility issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

Jill Boudreaux
Acting Undersecretary

0701#011

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Child Care Assistance (LAC 67:III.5103, 5107, and 5109)

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.5103, 5107, and 5109, in the Child Care Assistance Program effective January 1, 2007, pursuant to the authority granted to the department by the Child Care and Development Fund (CCDF). This Rule shall remain in effect for a period of 120 days.

The Office of Family Support subsidizes a portion of child care expenses incurred by some low-income families to allow them to participate in training programs, attend school, or maintain employment. Although federal regulations do not mandate that state payment rates for child care services

fall within the seventy-fifth percentile of the average payment rates for the state's child care providers, this level is encouraged by the Administration for Children and Families. A 2005 Child Care Market Rate Survey concluded that Louisiana's payment rates fall below the seventy-fifth percentile. In an effort to reach this desired level of payment, the agency is proposing to increase the State Maximum Rate for services to eligible child care providers in Section 5109.

The proposed amendments will not increase cost to a child care-eligible client as the agency also proposes to increase the percentage of child care costs paid for by the agency thereby absorbing the provider payment increase.

Section 5107 is being amended to include a provision that a Family Child Day Care Home (FCDCH) provider will not be an eligible provider if the child's non-custodial parent is residing in the FCDCH and is not working or attending a job training or educational program during the hours that care is needed and that an FCDCH provider must care for no more than six children. Language in Section 5103.A. is being repromulgated as it was erroneously removed in a previous rule change.

Title 67
SOCIAL SERVICES

Part III. Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance

Subchapter A. Administration, Conditions of Eligibility, and Funding

§5103. Conditions of Eligibility

A. Family Independence Temporary Assistance Program (FITAP) recipients who are satisfactorily participating in the Strategies to Empower People (STEP) Program, as determined by the case worker, are categorically eligible. The program will pay 100 percent of the FITAP/STEP participant's child care costs, up to the maximum amounts listed in §5109.B. The following eligibility criteria must be met.

1. The household must include a child in current need of child care services who is under the age of 13, or age 13 through 17 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or by receipt of Supplemental Security Income (SSI), or who is under court supervision.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L.104-193, Act 58 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:1106 (July 2003),

LR 29:1833 (September 2003), LR 30:496 (March 2004), LR 30:1487 (July 2004), LR 31:101 (January 2005), LR 31:2263 (September 2005), LR 32:1464 (August 2006), LR 33:

Subchapter B. Child Care Providers

§5107. Child Care Provider

A - B. ...

C. An FCDCH provider must be registered and active in the CCAP Provider Directory before payments can be made to that provider.

1. To be eligible for participation, an FCDCH provider must complete and sign an FCDCH provider agreement, complete a request for registration and Form W-9, pay appropriate fees, furnish verification of Social Security number and residential address, provide proof that he/she is at least 18 years of age, and meet all registration requirements, including:

C.1.a. - g. ...

h. caring for no more than six children, including his own children and any other children living at his residence, who are under age 13 or age 13 through 17 if disabled.

C.2. - E. ...

F. Under no circumstances can the following be considered an eligible CCAP provider:

1. - 2. ...

3. an FCDCH provider, (in which child's non-custodial parent is residing in the FCDCH and is not working or attending a job training or educational program during the hours the care is needed);

F.4. - I.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session, Act 58, 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:496 (March 2004), LR 30:1484 (July 2004), LR 30: 1487 (July 2004), LR 31:102 (January 2005), LR 31:2263 (September 2005), LR 32:1465 (August 2006), LR 33:

§5109. Payment

A. The sliding fee scale used for non-FITAP recipients is subject to adjustment based on the state median income and poverty levels, which are published annually. A non-FITAP household shall pay a portion of its child care costs monthly in accordance with the sliding fee scale, and this shall be referred to as a "co-payment." The sliding fee scale is based on a percentage of the state median income.

**Sliding Fee Scale for Child Care Assistance Recipients
75 Percent of Projected Median Income**

Number in Household	2	3	4	5	6	DSS %
Monthly Household Income	0 - 1069	0 - 1341	0 - 1613	0 - 1884	0 - 2156	80%
	1070-1608	1342-1997	1614-2386	1885-2774	2157-3163	60%
	1609-2147	1998-2653	2387-3158	2775-3664	3164-4169	40%
	Above 2147	Above 2653	Above 3158	Above 3664	Above 4169	0%

Number In Household	7	8	9	10	11	DSS %
Monthly Household Income	0-2428	0-2699	0-2971	0-3243	0-3514	80%
	2429-3346	2700-3529	2972-3712	3244-3896	3515-4079	60%
	3347-4264	3530-4358	3713-4453	3897-4548	4080-4643	40%
	Above 4264	Above 4358	Above 4453	Above 4548	Above 4643	0%

Number In Household	12	13	14	15	16	DSS %
Monthly Household Income	0-3786	0-4058	0-4329	0-4601	0-4873	80%
	3787-4262	4059-4445	4330-4628	4602-4811	4874-4995	60%
	4263-4737	4446-4832	4629-4927	4812-5021	4996-5116	40%
	Above 4737	Above 4832	Above 4927	Above 5021	Above 5116	0%

Number In Household	17	18	DSS %
Monthly Household Income	0-5144	0-5416	80%
	5145-5178		60%
	5179-5211		40%
	Above 5211		0%

NOTE: Effective January 1, 2007, the sliding fee scale has been adjusted as reflected in the above tables.

B. Determination of Payments

1. Payments to providers on behalf of non-FITAP recipients will be a percentage of the lesser of:

- a. ...
- b. the State Maximum Rate for authorized services effective January 1, 2007 as indicated below:

Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Class A	\$17.50	\$18.50	\$21.65	\$22.65
Class E	\$15.00	\$16.00	\$18.50	\$19.50
Class R	\$15.00	\$16.00	\$18.50	\$19.50
Class U	\$14.50	\$15.50	\$17.90	\$18.90

2. Payments to providers on behalf of FITAP recipients will be the lesser of:

- a. ...
- b. the State Maximum Rate for authorized services effective January 1, 2007 as indicated below:

Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Class A	\$17.50	\$18.50	\$21.65	\$22.65
Class E	\$15.00	\$16.00	\$18.50	\$19.50
Class R	\$15.00	\$16.00	\$18.50	\$19.50
Class U	\$14.50	\$15.50	\$17.90	\$18.90

B.3. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 (December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:1834 (September 2003), LR 30:1485 (July 2004), LR 31:2265 (September 2005), LR 32:1465 (August 2006), LR 33:

Ann S. Williamson
Secretary

0701#012

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

**Support Enforcement Services Program
Mandatory Fee for Successful Child Support Collection
(LAC 67:III.2523)**

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 4, Support Enforcement Services, by adopting §2523 Mandatory Fee for Successful Child Support Collection. This declaration is effective January 29, 2007, and shall remain in effect for 120 days. This declaration is necessary to extend the original Emergency Rule effective October 1, 2006, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in the March 2007 issue.)

Pursuant to Section 454(6)(B)(ii) of the Social Security Act, the agency is adopting §2523, which will allow for the imposition of an annual fee for successful child support collection in compliance with federal guidelines.

Emergency action in this matter is necessary to ensure continued compliance with federal regulations and avoid federal penalties and sanctions that could be imposed by the Administration for Children and Families, Office of Child Support Enforcement, the governing authority of the Support Enforcement Program in Louisiana.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter E. Individuals Not Otherwise Eligible

§2523. Mandatory Fee for Successful Child Support Collection

A. Effective October 1, 2006, in the case of an individual who has never received assistance under a state program funded under part A of the Social Security Act and for whom the state has collected at least \$500 of support, the state shall impose an annual fee of \$25 for each case in which services are furnished.

B. The custodial party shall be responsible for the annual fee and the fee shall be retained by the state from support collected, (but not from the first \$500 collected) or paid by

the state out of its own funds (the payment of which from state funds shall not be considered as an administrative cost of the state for the operation of the plan, and the fees shall be considered income to the program).

C. The mandatory fee will accrue based on the federal fiscal year.

D. Fees imposed and not collected in one year will be collected in the following federal fiscal year or subsequent federal fiscal years.

AUTHORITY NOTE: Promulgated in accordance with section 454(6) (B) (ii) of Social Security Act, AT-06-01, and DCL-06-28.

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

Ann Silverberg Williamson
Secretary

0701#067

DECLARATION OF EMERGENCY

**Department of Treasury
Board of Trustees of the Louisiana
State Employees' Retirement System**

**Voluntary Deductions from Retiree Benefits Payroll
(LAC 58.I:1101 and 1103)**

Under the authority of R.S. 11:515 and in accordance with R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has adopted an Emergency Rule amending LAC 58.I:1101 and 1103, which provide for voluntary deductions by LASERS retirees from their benefits paid by this system. They are being amended in order to have them in place for January 01, 2007, as required by the Pension Protection Act of 2006. This Rule complies with and is enabled by R.S. 11:515.

The effective date for this Rule is December 15, 2006, and it shall remain in effect for the maximum number of days allowed or the date this Rule becomes effective through the ordinary promulgation process, whichever comes first.

Title 58

RETIREMENT

Part I. Louisiana State Employees' Retirement System

Chapter 11. Voluntary Deductions from Retiree

Benefits Payroll

§1101. Application Process for Voluntary Payroll

Deduction

A. Application shall be made by the company, corporation, or organization which is the provider of coverage, product, service, or recipient of monies and shall be signed by two officers of the applicant company, corporation, or organization. The completed application shall be submitted to LASERS.

B. The following type providers of services shall be considered for approval:

1. the State Group Benefits program;
2. the group insurance plan administered by the Department of Employment and Training;
3. the Retired State Employees' Association;
4. general insurance companies and other providers that are included on the annual listing maintained by the Office of State Uniform Payroll;

5. credit unions formed for the primary purpose of serving state employees that have a payroll deduction for employees of the members' agencies;

6. other member or retiree associations approved by the board of trustees;

7. vendors receiving payment through voluntary deductions on the effective date of these rules; and

8. other insurance companies approved by the board of trustees.

C. Applicant shall designate a coordinator to act as primary contact with LASERS for resolution of invoicing, refund, and reconciliation problems and resolving claims problems for retirees.

D. All vendors shall file annual renewal applications with LASERS.

E. Applications shall be received by LASERS beginning December 15, 2006.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), LR 33:

§1103. Applicant and Vendor Requirements

A. General insurance vendors shall meet the requirements established by the Division of Administration and shall either be included on the annual listing maintained by the Office of State Uniform Payroll or approved by the board of trustees.

B. Any provider who qualifies to submit an application under §1101.B.5 or B.7 above shall meet the regulatory requirements of the appropriate federal or state regulatory agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), LR 33:

Cindy Rougeou
Executive Director

0701#004

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2007 Closure of State Outside Waters to Shrimping

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close state outside waters to shrimping by zone each year as it deems appropriate, the Wildlife and Fisheries Commission hereby orders a closure to shrimping in that portion of state outside waters, south of the Inside/Outside Shrimp Line as described in R.S. 56:495, from the western shore of Freshwater Bayou Canal at 92 degrees 18 minutes 33 seconds west longitude to the U.S. Coast Guard navigational light off the northwest

shore of Caillou Boca at 29 degrees 03 minutes 10 seconds north latitude and 90 degrees 50 minutes 27 seconds west longitude. This closure is effective at 6 a.m., Monday, January 8, 2007.

R.S. 56:498 provides that the possession count on saltwater white shrimp for each cargo lot shall average no more than 100 (whole specimens) count per pound except during the time period from October fifteenth through the third Monday in December. Current biological sampling conducted by the Department of Wildlife and Fisheries has indicated that white shrimp in this portion of state outside waters do not average 100 possession count and additional small white shrimp are expected to recruit to these waters. This action is being taken to protect these small white shrimp and provide them the opportunity to grow to a larger and more valuable size.

The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to close to shrimping, if necessary to protect small white shrimp, any part of remaining state outside waters, if biological and technical data indicate the need to do so or if enforcement problems develop, and to reopen any area closed to shrimping when the closure is no longer necessary; and hereby authorizes the Secretary of the Department of Wildlife and Fisheries to open and close special shrimp seasons in any portion of state inside waters where such a season would not detrimentally impact developing brown shrimp populations.

Terry D. Denmon
Chairman

0701#022

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2007 Commercial King Mackerel Season

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons and all rules and regulations pursuant thereto by Emergency Rule, and R.S. 56:6(25)(a) and 56:326.3 which provide that the Wildlife and Fisheries Commission may set seasons for saltwater finfish; the Wildlife and Fisheries Commission hereby sets the following season for the commercial harvest of king mackerel in Louisiana state waters.

The commercial season for king mackerel in Louisiana state waters will open at 12:01 a.m., July 1, 2007 and remain open until the allotted portion of the commercial king mackerel quota for the western Gulf of Mexico has been harvested or projected to be harvested.

The commission grants authority to the Secretary of the Department of Wildlife and Fisheries to close the commercial king mackerel season in Louisiana state waters when he is informed by the National Marine Fisheries Service (NMFS) that the commercial king mackerel quota for the western Gulf of Mexico has been harvested or is projected to be harvested, such closure order shall close the season until 12:01 a.m., July 1, 2008, which is the date

expected to be set for the re-opening of the 2008 commercial king mackerel season in federal waters.

The commission also authorizes the secretary to open additional commercial king mackerel seasons in Louisiana state waters if he is informed that NMFS has opened such additional seasons and to close such seasons when he is informed that the commercial king mackerel quota for the western Gulf of Mexico has been filled, or is projected to be filled.

Effective with seasonal closures under this Emergency Rule, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell, or attempt to purchase, exchange, barter, trade, or sell king mackerel, whether taken from within or without Louisiana territorial waters. Also effective with this closure, no person shall possess king mackerel in excess of a daily bag limit, which may only be in possession during the open recreational season by legally licensed recreational fishermen. Nothing shall prohibit the possession or sale of fish by a commercial dealer if legally taken prior to the closure providing that all commercial dealers possessing such fish taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Terry D. Denmon
Chairman

0701#018

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2007-08 Reef Fish Commercial Seasons and Trip Limits

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the Wildlife and Fisheries Commission hereby declares:

Commercial Trip and Possession Limits for Reef Fish. The commercial trip and possession limit for deep-water and shallow-water grouper combined (black, misty, Warsaw, red, snowy, yellowedge, yellowfin and yellowmouth groupers, red hind, rock hind, speckled hind, gag and scamp), shall be 6,000 pounds per vessel. The Secretary of the Department of Wildlife and Fisheries is hereby authorized to establish and modify trip and possession limits for the commercial harvest of any species or group of species of the fishes listed in LAC 76:VII.335, Reef Fish—Harvest Regulations, in Louisiana state waters if he is informed by the Regional Administrator of NMFS that the applicable trip or possession limit has been established for the federal waters of the Gulf of Mexico, and if he is requested by the Regional Administrator of NMFS that the state of Louisiana enact compatible regulations in Louisiana state waters.

Effective with any commercial trip or possession limit under this Emergency Rule, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell, or attempt to purchase, exchange, barter, trade or sell the

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affected species or group of species, whether taken from within or without Louisiana territorial waters in excess of such established commercial trip or possession limit.

Commercial Seasons for Reef Fish. The Secretary of the Department of Wildlife and Fisheries is hereby authorized to close the season for the commercial harvest of any species or group of species of the fishes listed in LAC 76:VII.335, Reef Fish—Harvest Regulations, in Louisiana state waters if he is informed by the Regional Administrator of NMFS that the applicable commercial quota has been harvested in the Gulf of Mexico, and if he is requested by the Regional Administrator of NMFS that the State of Louisiana enact compatible regulations in Louisiana state waters.

The commission also hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to re-open and close the commercial seasons described here in Louisiana state waters if he is informed by NMFS that the season dates for the commercial harvest of these fish species in the federal waters of the Gulf of Mexico as set out herein have been modified, and that NMFS requests that the season be modified in Louisiana state waters. Such authority shall extend through January 31, 2008.

Effective with seasonal closures under this Emergency Rule, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell, or attempt to purchase, exchange, barter, trade, or sell the affected species of fish, whether taken from within or without Louisiana territorial waters. Also effective with this closure, no person shall possess the affected species of fish in excess of a daily bag limit, which may only be in possession during the open recreational season by legally licensed recreational fishermen. Nothing shall prohibit the possession or sale of fish by a commercial dealer if legally taken prior to the closure providing that all commercial dealers possessing such fish taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Terry D. Denmon
Chairman

0701#020

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2007 Reef Fish Harvest

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the Wildlife and Fisheries Commission hereby declares:

Gag, black and red grouper recreational seasons: The 2007 seasons for the recreational harvest of gag, black and red grouper in Louisiana state waters are as follows: the recreational fishing season for gag, black and red grouper will close at 12:01 a.m. on February 15, 2007, and remain closed until 12:01 a.m. on March 15.

Recreational Trip and Possession Limits for groupers: The recreational trip and possession limit for groupers (combined) is as follows: Groupers, combined, excluding goliath grouper and Nassau grouper - 5 per person per day, but not to exceed 1 speckled hind or 1 warsaw grouper per vessel per day or 1 red grouper per person per day. However, no grouper may be retained by the captain or crew of a vessel operating as a charter vessel or headboat—their bag limit is zero.

"Groupers, combined" contains the following species: Red hind, rock hind, speckled hind, black grouper, misty grouper, red grouper, snowy grouper, yellowedge grouper, yellowfin grouper, yellowmouth grouper, Warsaw grouper, gag grouper, and scamp. No person shall possess Goliath grouper (formerly known as jewfish) or Nassau grouper whether taken from within or without Louisiana territorial waters.

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

Commercial Red Snapper Regulations:

1. All persons aboard a vessel for which no commercial vessel permit for Gulf reef fish has been issued by the National Marine Fisheries Service (NMFS) under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to the recreational bag limit for red snapper which may not be bartered or sold. No person aboard any vessel shall commercially possess, sell, barter, trade, exchange or attempt to sell, barter, trade or exchange red snapper unless possessing a federal permit for the harvest of Gulf of Mexico Reef Fish and a federal red snapper Individual Fishing Quota (IFQ) vessel endorsement.

2. Requirement for IFQ vessel endorsement and allocation: In addition to the federal commercial vessel permit for Gulf reef fish, in order to fish for, possess, or land Gulf red snapper, regardless of where harvested or possessed, a federal Gulf red snapper IFQ vessel endorsement must have been issued to the vessel and be on board. No person shall commercially harvest or land red snapper without holding or being assigned IFQ allocation at least equal to the pounds of red snapper landed/docked at a shore side location or off loaded. On the last fishing trip of the year a vessel may exceed by 10 percent the remaining IFQ allocation.

3. No person shall purchase, sell, exchange, barter or attempt to purchase, sell, exchange, or barter any red snapper in excess of any possession limit for which a commercial license, permit and appropriate allocation was issued.

4. Requirement for federal IFQ dealer endorsement: In addition to the requirement for a federal dealer permit for Gulf reef fish, for a dealer to receive Gulf red snapper from a commercial fishing vessel, he must have a federal red snapper IFQ dealer endorsement. For a person aboard a vessel with a Gulf red snapper IFQ vessel endorsement to sell to anyone other than a permitted dealer, such persons must also have a federal Gulf red snapper IFQ dealer endorsement.

5. Requirement for transaction approval code: The owner or operator of a vessel landing red snapper is responsible for calling NMFS Office of Law Enforcement at least 3 hours, but no more than 12 hours, in advance of landing to report the time and location of landing and the name of the IFQ dealer where the red snapper are to be received. Failure to comply with this advance notice of landing requirement will preclude authorization to complete the required NMFS landing transaction report and, thus, will preclude issuance of the required NMFS-issued transaction approval code. Possession of commercial red snapper from the time of transfer from a vessel through possession by a dealer is prohibited unless the red snapper are accompanied by a transaction approval code verifying a legal transaction of the amount of red snapper in possession.

6. Offloading and transfer: No person shall offload from a vessel or receive from a vessel commercially harvested red snapper during the hours from 6:00 p.m. until 6:00 a.m., local time. No person who is in charge of a commercial red snapper fishing vessel shall offload red snapper from the vessel prior to three hours after proper notification is made to National Oceanographic and Atmospheric Administration (NOAA) Fisheries. At-sea or dockside transfer of commercial red snapper from one vessel to another vessel is prohibited.

7. VMS requirement: No person shall commercially harvest red snapper from a vessel unless that vessel is equipped with a fully operational and approved Vessel Monitoring System (VMS) device. Approved devices are those devices approved by NOAA Fisheries and operating under the requirements mandated by NOAA Fisheries.

The commission authorizes the secretary to set the effective date for the VMS requirements of this Emergency Rule when the effective date is set for the requirement of VMS on reef fish commercial vessels in Federal waters, and when a request is received from the Regional Administrator of NMFS to enact compatible regulations within and without Louisiana state waters.

Terry D. Denmon
Chairman

0701#021

Rules

RULE

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Fumigation of Conifer or Hardwood Seedlings (LAC 7:XV.132)

The Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, hereby adopts regulations governing the use of methyl bromide as a fumigation treatment in seedling plant beds prior to seeding in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The adoption of this Rule will require the shipment of conifer or hardwood seedlings to be used for forestry purposes be accompanied by a certificate evidencing the apparent freedom of pests, diseases, and noxious plants. It further declares that the preferred method of treatment to aid in obtaining pest free status is fumigation with methyl bromide.

These rules are enabled by R.S. 3:1652.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Subchapter B. Nursery Stock Quarantines

§132. Conifer and Hardwood Seedlings Used for Forestation Purposes

A. The premises of nurseries growing seedlings for afforestation or reforestation purposes must be inspected and found to be apparently free of pests, diseases, and noxious plants.

B. Any shipment of conifer or hardwood seedlings into or within the state for afforestation or reforestation purposes must be accompanied by a valid certificate issued by the department or the state of origin evidencing that the seedlings are apparently free of pests, diseases, and noxious plants.

C. To aid in obtaining seedlings that are free of pests, diseases, and noxious plants, the preferred method of treatment is fumigation using methyl bromide in seedling plant beds prior to seeding. All such treatments shall be accomplished by utilizing state and federally registered pesticides in accordance with the label.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 33:34 (January 2007).

Bob Odom
Commissioner

0701#039

RULE

Department of Agriculture and Forestry Office of Agro-Consumer Services Weights and Measures Division

Chloramphenicol in Seafood, Seafood Products and Honey (LAC 7:XXXV.501, 503 and 505)

The Louisiana Department of Agriculture and Forestry, Weights and Measures Commission, adopts regulations regarding the testing for Chloramphenicol in seafood and honey. This Rule is adopted in accordance with R.S. 3:2A, 3:3B, 3:4608 and the rule making provisions of the Louisiana Administrative Procedure Act, (R.S. 49:950 et seq.).

Chloramphenicol is a broad-spectrum antibiotic that has been restricted by the FDA for use in humans only in those cases where other antibiotics have not been successful. The FDA has set a zero tolerance level for Chloramphenicol in food and has prohibited the extra label use of Chloramphenicol in the United States in food producing animals, (21 CFR 530.41). Chloramphenicol has been found in food held, exposed or offered for sale, or sold in Louisiana.

Chloramphenicol is known to cause aplastic anemia, which adversely affects the ability of a person's bone marrow to produce red blood cells. Aplastic anemia can be fatal. In addition, according to the National Institute on Environmental and Health Sciences, Chloramphenicol can reasonably be anticipated to be a human carcinogen. In widely accepted references such as "Drugs in Pregnancy and Lactation," the use of Chloramphenicol is strongly dissuaded during pregnancy, especially late pregnancy. Chloramphenicol can be transmitted to an unborn child through the placenta and to an infant through the mother's milk. The dosage transmitted to an unborn child is essentially the same dosage as is taken in by the mother. However, the unborn child is unable to metabolize Chloramphenicol as efficiently, thereby causing the risk of an increasing toxicity level in the unborn child. Although the effect on an infant as a result of nursing from a mother who has taken Chloramphenicol is unknown, it is known that such an infant will run the risk of bone marrow depression.

This Rule is enabled by R.S. 3:2A, 3:3B, R.S. 3:4608.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 5. Consumer Products—Testing and Labeling

Subchapter A. Chloramphenicol

§501. Definitions

A. As used in this Chapter the following terms shall have the meaning given to them except where the context expressly indicates otherwise.

Chloramphenicol Region—a geographic area where Chloramphenicol has been declared by the commissioner to be used on or administered to crabs, crawfish, or shrimp, or found in seafood, honey, or a product made from seafood or honey.

Geographic Area—a country, province, state, or territory or definable geographic region.

Honey—any raw or processed honey or any product that contains honey.

Seafood—any crab, crawfish or shrimp, whether whole, portioned, processed or shelled, or any item or product containing crab, crawfish or shrimp meat.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3 and 3:4608.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Division, LR 33:34 (January 2007).

§503. Selling, Testing, Declarations, Records, Penalties

A. No seafood or honey may be held, offered or exposed for sale, or sold in Louisiana if the seafood or honey is contaminated with Chloramphenicol.

B. The department may inspect, take samples for testing, and test for Chloramphenicol in any seafood or honey of whatever origin, being held, offered or exposed for sale, or sold in Louisiana.

C. No seafood or honey harvested from or produced, processed, or packaged in a Chloramphenicol region may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection F.

D. The commissioner may make or rescind declarations related to Chloramphenicol in accordance with this Subsection.

1. The commissioner may declare a geographic area to be a Chloramphenicol region, based upon information that would lead a reasonable person to believe that Chloramphenicol is being used on, administered to, or found in seafood or honey in that geographic area.

2. Any declaration made pursuant to this Subsection and any rescission of any prior declaration shall be by rule promulgated in accordance with the provisions of the Administrative Procedure Act.

E. Declarations

1. The commissioner declares the following geographic areas to be Chloramphenicol regions for the following named seafood or honey because he has information that would lead a reasonable person to believe that Chloramphenicol is being used on, administered to, or found in seafood or honey in or from these geographic area(s):

- a. crab:
 - i. China;
 - ii. Vietnam;
 - iii. Thailand;
 - iv. Mexico;
 - v. Malaysia;
- b. crawfish and shrimp:
 - i. China;
- c. honey:
 - i. China;
 - ii. Thailand.

F. Seafood or honey that comes from a Chloramphenicol region must meet the following requirements for sampling,

identification, sample preparation, testing, and analysis before being held, offered or exposed for sale, or sold in Louisiana.

1. Sampling of Seafood

a. The numbers of samples that shall be taken are as follows:

- i. two samples are to be taken of any seafood that is in lots of 50 pounds or less;
- ii. four samples are to be taken of any seafood that is in lots of 51 to 100 pounds;
- iii. twelve samples are to be taken of any seafood that is in lots of 10 pounds up to 50 tons;
- iv. twelve samples for each 50 tons are to be taken of any seafood that is in lots of over 50 tons.

b. Samples of unpackaged seafood must be approximately 1 pound, (454 grams), of seafood per sample from randomly selected areas.

c. For packaged seafood, each sample shall be at least 6 ounces, (170.1 grams), in size and shall be taken at random throughout each lot of seafood.

2. Sampling of Honey

a. The numbers of samples that shall be taken are as follows.

- i. Two samples are to be taken of any honey that is in lots of 50 pounds or less.
- ii. Four samples are to be taken of honey that is in lots of 51 to 100 pounds.
- iii. Twelve samples are to be taken of honey that is in lots of 101 pounds up to 50 tons.

b. For honey in bulk wholesale containers, each sample shall be at least 1 pound or 12 fluid ounces and must be pulled at random throughout each lot.

c. For packaged honey, each sample shall be at least 8 ounces in size and shall be taken at random throughout each lot.

3. If the seafood or honey to be sampled consists of packages grouped together, but labeled under two or more trade or brand names, then the seafood or honey packaged under each trade or brand name shall be sampled separately. If the seafood or honey to be sampled are not packaged, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately.

4. A composite of the samples shall not be made. Each sample shall maintain a separate identity so that each sample may be tested individually. Each sample shall be clearly identifiable as belonging to a specific group. All seafood samples shall be kept frozen and delivered to the lab unless it adversely affects the sample quality or the ability to accurately test the sample.

5. Sample Identification

- a. Each sample shall be identified as follows:
- i. any package label;
 - ii. any lot or batch numbers;
 - iii. the country, province, state and city of origin;
 - iv. the name and address of the importing company;
 - v. unique sample number identifying the group or batch sample and sub sample extension number for each sub sample.

6. Sample Preparation

- a. Honey

i. For small packages of honey up to and including 8 ounces, use the entire sample. If honey sample includes more than one container, they shall be blended together. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample as a reserve.

b. Seafood

i. For small packages of seafood up to and including 1 pound, use the entire sample. Shell the seafood, exercising care to exclude all shells from sample. Grind sample with food processor type blender while semi-frozen or with dry ice. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample in a freezer as a reserve.

7. Sample Analysis

a. Immunoassay test kits may be used if the manufacturer's published detection limit is 1 part per billion, (1 ppb) or less. Acceptable test kits are the Riopharm Ridascreeen Chloramphenicol enzyme immunoassay kit and the Charm II Chloramphenicol kit. The commissioner may authorize other immunoassay kits with appropriate detection limits of 1 ppb or below to be used. Each sample must be run using the manufacturer's test method. The manufacturer's specified calibration curve must be run with each set. All results 1 ppb or above must be assumed to be Chloramphenicol unless further testing by approved GC/LC method indicates the result to be an artifact.

b. HPLC-MS, GC-ECD, GC-MS methods currently approved by FDA, the United States Department of Agriculture or the Canadian Food Inspection Agency with detection limits of 1 ppb or below may also be used.

c. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the commissioner.

8. Any qualified laboratory may perform the testing and analysis of the samples unless the laboratory is located in a Chloramphenicol region. The commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

9. The laboratory that tests and analyzes a sample or samples for Chloramphenicol shall certify the test results in writing.

10. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the department prior to the seafood or honey being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the seafood or honey.

11. Upon actual receipt by the department of a copy of the certified test results and written documentation required to accompany the certified test results then the seafood or honey may be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the commissioner.

12. A copy of the test results, including the test reference number, shall either accompany every shipment and be attached to the documentation submitted with every shipment of such seafood or honey sent to each location in Louisiana or shall be immediately accessible to the department, upon request, from any such location.

G. Any person who attempts to ship into Louisiana or to hold, offer or expose for sale, or sell in Louisiana any seafood or honey required to be sampled and tested under this Section shall be responsible for having such seafood or honey sampled and tested in accordance with Subsection F. Any such person must, at all times, be in full and complete compliance with all the provisions of this Chapter.

H. The commissioner may reject the test results for any seafood or honey if the commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

I. If any test results are rejected by the commissioner then all persons attempting to ship into Louisiana or holding, offering or exposing for sale, or selling in Louisiana any seafood or honey that were subject to the testing will be notified immediately of such rejection and shall be issued a stop-sale, hold or removal order as to the seafood or honey. Thereafter, it will be the duty of all such persons to abide by such order until the commissioner lifts the order in writing. Any such person may have the seafood or honey retested, at his expense, in accordance with this Section. If the certified results of the retesting show that the seafood or honey is free of Chloramphenicol then an application may be made to the commissioner to lift the order.

J. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any seafood or honey that does not meet the requirements of this Section. Any such order shall remain in place until lifted in writing by the commissioner.

K. The department may take physical possession and control of any seafood or honey that violates the requirements of this Section if the commissioner finds that the seafood or honey presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

L. All records and information regarding the distribution, purchase and sale of seafood or honey shall be maintained for two years and shall be open to inspection by the department.

M. Penalties for any violation of this Section shall be the same as and assessed in accordance with R.S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Division, LR 33:35 (January 2007).

§505. Labeling by Country of Origin

A. All seafood or honey specifically listed in §503.E.1 of this Chapter, which is being shipped into Louisiana or held, offered or exposed for sale, or sold in Louisiana, and which come from a foreign country, shall indicate the country of origin, except as otherwise provided in this Section.

B. Every package or container that contains foreign seafood or honey specifically listed in §503.E.1 of this Chapter shall be marked or labeled in a conspicuous place as legibly, indelibly, and permanently as the nature of the package or container will permit so as to indicate to the ultimate retail purchaser of the seafood or honey the English name of the country of origin.

1. Legibility must be such that the ultimate retail purchaser in the United States is able to find the marking or label easily and read it without strain.

2. Indelibility must be such that the wording will not fade, wash off or otherwise be obliterated by moisture, cold or other adverse factors that such seafood or honey are normally subjected to in storage and transportation.

3. Permanency must be such that, in any reasonably foreseeable circumstance, the marking or label shall remain on the container until it reaches the ultimate retail purchaser unless it is deliberately removed. The marking or label must be capable of surviving normal distribution and storing.

C. When foreign seafood or honey specifically listed in §503.E.1 of this Chapter are combined with domestic seafood or honey, the marking or label on the container or package or the sign included with any display shall clearly show the country of origin of the foreign seafood or honey.

D. In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, appear on any container or package containing foreign seafood or honey specifically listed in §503.E.1 of this Chapter, or any sign advertising such foreign seafood or honey for sale, and those words, letters or names may mislead or deceive the ultimate retail purchaser as to the actual country of origin, then the name of the country of origin preceded by "made in," "product of," or other words of similar meaning shall appear on the marking, label or sign.

1. The wording indicating that the seafood or honey is from a country other than the United States shall be placed in close proximity to the words, letters or name that indicates the seafood or honey is a product of the United States in a legible, indelible and permanent manner.

2. No provision of this Section is intended to or is to be construed as authorizing the use of the words "United States," "American," or the letters "U.S.A.," or any variation of such words or letters, or the name of any state, city or location in the United States, if such use is deceptive, misleading or prohibited by other federal or state law.

E. Foreign seafood or honey specifically listed in §503.E.1 of this Chapter shall not have to be marked or labeled with the country of origin if such seafood or honey is included as components in a product manufactured in the United States and the seafood or honey is substantially transformed in the manufacturing of the final product. In no event shall thawing, freezing, packing, packaging, re-packing, re-packaging, adding water, portioning, shelling, processing, peeling, partially cooking or combining with domestic seafood or honey shall be considered to be a substantial transformation.

F. The commissioner shall have all the powers granted to him by law, or in accordance with any cooperative endeavor with any other public agency, to enforce this Section, including the issuance of stop-sale, hold or removal

orders and the seizing of seafood or honey mislabeled or misbranded as to the country of origin.

G. Penalties for any violation of this Section shall be the same as and assessed in accordance with R.S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Division, LR 33:36 (January 2007).

Bob Odom
Commissioner

0701#041

RULE

Department of Agriculture and Forestry Office of Agro-Consumer Services Weights and Measures Division

Fluoroquinolones in Seafood (LAC 7:XXXV.511)

The Commissioner of Agriculture and Forestry adopts the following Rule governing the testing and sale of seafood in Louisiana. This Rule is being adopted in accordance with R.S. 3:2.A, 3:3.B, R.S. 3:4608 of the Administrative Procedure Act.

The commissioner intends to promulgate these rules and regulations to implement standards relating to Fluoroquinolones in seafood that are consistent with standards adopted by the United States Food and Drug Administration, (FDA), regarding Fluoroquinolones in foods. All seafood sold in Louisiana must meet the standards set out in these regulations prior to distribution and sale of seafood in Louisiana.

Fluoroquinolones is a broad-spectrum antibiotic that has been restricted by the FDA for use in humans only. The FDA banned the extra label use of Fluoroquinolones in food producing animals in 1997 after determining that such use presented a risk to the public health. That ban is still in effect (see 21 CFR 530.41). "Extralabel use" means "actual use or intended use of a drug in an animal in a manner that is not in accordance with the approved labeling," see 21 CFR 530.3(a).

Since, the FDA has not established a safe level, tolerance level or safe concentration for Fluoroquinolones there is a zero tolerance level for Fluoroquinolones. Therefore, foods in which Fluoroquinolones are found are adulterated foods under the United States and Louisiana Food, Drug, and Cosmetics Acts.

Fluoroquinolones have been known to cause hypersensitivity or allergic reactions, toxicity-related reactions, and to an increased prevalence of infections due to antibiotic-resistant microorganisms. Hypersensitivity reactions can include life-threatening anaphylaxis, as well as urticaria, dermatitis, vomiting, and diarrhea. There is a significant chance that these reactions may be attributed to other factors, thereby causing a misdiagnosis, and subsequent mistreatment of a person's medical condition.

Toxicity can affect multiple organ systems and include peripheral neuropathies, seizures, phototoxicity, tendon rupture, fatal drug interactions and arthropathies in children. Fluoroquinolones should not be taken by pregnant and

lactating women due to concern over the potential effect on a developing fetus.

This Rule is enabled by R.S. 3:2.A, 3:3.B, R.S. 3:4608.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 5. Consumer Products—Testing and Labeling

Subchapter B. Fluoroquinolones

§511. Fluoroquinolones in Seafood Prohibited; Testing and Sale of

A. Definitions

Food Producing Animals—both animals that are produced or used for food and animals that produce material used as food.

Geographic Area—a country, province, state, or territory or definable geographic region.

Seafood—any edible freshwater or saltwater fish or shellfish, whether whole, portioned, processed and any product containing seafood.

B. No seafood may be held, offered or exposed for sale, or sold in Louisiana if such seafood contains Fluoroquinolones.

C. No seafood that is harvested from or produced, processed or packed in a geographic area, that the commissioner declares to be a location where Fluoroquinolones is being used on or found in food producing animals or in products from such animals, may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E. No seafood from any such geographic area may be used, as an ingredient in any food held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E.

D. The commissioner may declare a geographic area to be a location where Fluoroquinolones is being used on or found in food producing animals or in products from such animals, based upon information that would lead a reasonable person to believe that Fluoroquinolones is being used on or found in food producing animals, or in products from such animals, in that geographic area.

1. Any such declaration shall be subject to promulgation in accordance with the provisions of the Administrative Procedure Act.

2. The commissioner may release any such geographic area from a previous declaration that Fluoroquinolones is being used on food producing animals in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

E. Seafood that comes from a geographic area declared by the commissioner to be a location where Fluoroquinolones is being used on, or is found in food producing animals or in products from such animals, must meet the following requirements for sampling, identification, sample preparation, testing and analysis before being held, offered or exposed for sale, or sold in Louisiana.

1. Each sample shall consist of a case per lot of seafood.

2. Each sample shall be identified as follows:

- a. any package label;
- b. any lot or batch numbers;

- c. the country, province and city of origin;
- d. the name and address of the importing company;
- e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation

a. The laboratory shall randomly select 12 filets of fish from the case, remove any skin, and cut each filet in half. Use half of the sample for the original analysis portion and retain the other half of the sample in a freezer as a reserve. Thoroughly blend the halves of the filets to be tested.

b. For all other seafood take samples from 12 randomly selected areas of each case in an amount to equal approximately 1 pound. Remove any skin or shell and thoroughly blend the meat. After the sample is blended, split the sample in half, setting aside one-half for testing and reserving the other half in a freezer.

4. Sample Analysis

a. Remove for testing, approximately 2 grams from the portion of the sample being tested.

b. The sample is initially tested using liquid chromatography with florescent detection. Samples that test positive are to be retested for confirmation of the initial test result using liquid chromatography with electrospray mass spectroscopy.

c. The initial test shall conform to the test method authored by Roybal et al., in the Journal of AOAC International, Volume 85, Number 6, 2002, page 1293, or current FDA methods. The confirmation testing shall conform to FDA LIB 4108 or current FDA methods.

d. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the commissioner.

5. Any qualified laboratory may perform the testing and analysis of the samples unless the laboratory is located in any geographic area that the commissioner has declared to be a location where Fluoroquinolones is being used on or found in food producing animals, or in products from such animals. The commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

6. The laboratory that tests and analyzes a sample or samples for Fluoroquinolones shall certify the test results in writing.

7. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the department prior to the seafood being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the seafood.

8. Upon actual receipt by the department of a copy of the certified test results and written documentation required to accompany the certified test results then the seafood may

be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment and be attached to the documentation submitted with every shipment of such seafood sent to each location in Louisiana or shall be immediately accessible to the department, upon request, from any such location.

F. Any person who is seeking to bring seafood that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such seafood in Louisiana shall be responsible for having such seafood sampled and tested in accordance with Subsection E. Any such person must, at all times, be in full and complete compliance with all the provisions of this Section.

G. The commissioner may reject the test results for any seafood if the commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

H. In the event that any certified test results are rejected by the commissioner then any person shipping or holding the seafood will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the commissioner. Thereafter, it will be the duty of any such person to abide by such order until the commissioner lifts the order in writing. Any such person may have the seafood retested in accordance with this Section and apply for a lifting of the commissioner's order upon a showing that the provisions of this Section have been complied with and that the seafood are certified as being free of Fluoroquinolones.

I. The department may inspect, and take samples for testing, any seafood, of whatever origin, being held, offered or exposed for sale, or sold in Louisiana.

J. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any seafood that does not meet the requirements of this Section. Any such order shall remain in place until lifted in writing by the commissioner.

K. The department may take physical possession and control of any seafood that violate the requirements of this Section if the commissioner finds that the seafood presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

L. The commissioner declares that he has information that would lead a reasonable person to believe that Fluoroquinolones is being used on or found in food producing animals or in products from such animals, in the following geographic area(s).

1. The geographic area or areas are:

a. the country of Vietnam.

2. All seafood harvested from or produced, processed or packed in any of the above listed geographic areas is hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

M. All records and information regarding the distribution, purchase and sale of seafood or any food containing seafood from the listed geographic areas shall be maintained for two years and shall be open to inspection by the department.

N. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Division, LR 33:38 (January 2007).

Bob Odom
Commissioner

0701#040

RULE

Department of Agriculture and Forestry Structural Pest Control Commission

Structural Pest Control
(LAC 7:XXV.101 and 105)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, amends regulations defining and setting requirements for the change of status of a permittee and the selling or transferring of wood destroying insect contracts and closure of a place of business.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary to insure that those persons notify their customers with wood destroying insect contracts and the department of the change of status of the permittee or the closure of the place of business. These rules allow the department to better regulate the pest control industry by insuring that they keep their customers informed of the changes in their status and business.

These rules comply with and are enabled by R.S. 3:3203.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§101. Definitions

* * *

Permittee—any person who holds a place of business permit issued by the Louisiana Structural Pest Control Commission.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3362 and R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:323 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:954 (November 1989), LR 17:251 (March 1991), LR 23:855 (July 1997), LR 30:1143 (June 2004), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 31:26 (January 2005), amended by the Department of Agriculture and Forestry, Structural Pest Control, LR 33:39 (January 2007).

§105. Permit for Operation of Structural Pest Control Business; Changes in Structural Pest Control Business

A. Every place of business engaged in structural pest control work must obtain a permit for operation from the commission prior to engaging in structural pest control work.

B. No permit for operation shall be issued by the commission unless there is a licensee domiciled at the business location for which the permit is sought.

C. Each permit for operation must be renewed annually, on or before June 30 of each year.

D. The fee for issuance of a permit for operation shall be \$125 for firms which employ two or less employees and \$175 for firms which employ three or more employees.

E. When two or more businesses which are separate legal entities, even though owned by the same individual or the same legal entity, are operated at one physical location, each separate entity must obtain a permit for operation.

F. Whenever a license is suspended or revoked under §131, the commission may also revoke the permit to operate. In such cases, the commission shall recall the permit and require the licensee to immediately return the permit to the commission.

G. Whenever a permit is recalled by the commission as provided in §105.F, no structural pest control work of any kind may be provided by persons domiciled at the location for which the recalled permit has been issued.

H. Except as provided in this Subsection, any change in the status of a permittee (e.g., death, retirement, prolonged illness, merger, sale, change of ownership, etc.) must be reported to the commission, in writing, within 14 days after the change in status occurs.

1. If the change in the permittees status would result in the non-renewal of the place of business permit or would require the commission to issue a new place of business permit, then the notice must be accompanied by the following information:

- a. the reason for the change in the status and the effective date of the change;
- b. the status of all licensee(s) and registered and certified technicians;

I. If a permittee sells or otherwise transfers any wood destroying insects contract then the commission and each customer whose contract was sold or transferred shall receive the following written notification.

1. The selling or transferring permittee and the person purchasing or receiving the wood destroying insects contract shall each provide the commission in writing the following information and statements.

a. If all the wood destroying insects contracts of the permittee selling or transferring such contracts are being purchased or transferred then a statement that all wood destroying insects contracts are being sold or transferred and that all the contracts shall remain in full force and effect in accordance with the terms and conditions of the customers' contracts shall be sufficient.

b. If all the wood destroying insects contracts are not being sold or transferred then the information provided to the commission shall include:

i. a statement that all wood destroying insects contracts are being sold or transferred except for the specific contracts listed;

ii. a list of the specific contracts that are not being sold or transferred;

iii. for each contract being sold or transferred, a statement that all contracts being sold or transferred shall remain in full force and effect in accordance with the terms and conditions of the customers' contracts.

2. The person acquiring a wood destroying insects contract by a sale or transfer shall notify the customer in writing, within 30 days after the sale or transfer of:

a. the effective date of the sale, transfer, or change in status; and

b. the name, address, and telephone number of the person acquiring the customer's wood destroying insects contract;

c. a statement that the customer's contract shall remain in full force and effect in accordance with the terms and conditions of the contract.

J. A permittee who is closing his business or is otherwise not going to honor or service existing wood destroying insects contracts shall, within 14 days of the time of the close of business or ceasing to honor or service existing wood destroying insects contracts shall provide certified written notification of the decision to affected customers along with the following information:

1. the commission's address and telephone number;
2. the date of closure or last date the contract will be honored or serviced;
3. a statement of bond coverage; and
4. the bond company's name, address, telephone number, and contact person.

K. Any person who fails to comply with the provisions of this Section shall personally come before the commission prior to that person being granted a registration, certification, license, or permit, or renewal thereof. The commission may deny or defer action on a request to grant a registration, certification, license or permit, or renewal thereof. The commission may deny a renewal or impose civil penalties for violation of this Section only after the person has been brought to an adjudicatory proceeding and found guilty of violating the provisions of this Section.

L. All information and all documents relating to written contracts transmitted to the commission in accordance with the requirements of this Section shall be confidential and shall be exempt from the Public Records Law, R.S. 44:1 et seq., as provided in R.S. 3:3370.E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:325 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:954 (November 1989), LR 33:40 (January 2007).

Bob Odom
Commissioner

0701#042

RULE

Department of Economic Development Office of the Secretary Office of Business Development

Regional Awards and Matching Grant Program (LAC 13:III.Chapter 17)

The Department of Economic Development, Office of the Secretary and Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 36:104 and 36:108 hereby adopts the following Rule of the Regional Awards and Matching Grant Program, and to create LAC 13:III.Chapter 17.

The Department of Economic Development, Office of the Secretary and Office of Business Development, have found a need, since no such rules exist at this time, to provide rules for the creation and regulation of the Regional Awards and Matching Grant Program in order to provide assistance to eligible non-profit economic development organizations (EDOs) in their comprehensive and strategic marketing and/or recruitment plans for towns, cities, parishes and regions as a site for new Regional Awards and Matching Grant Awards, which will help to successfully secure the location, expansion, creation or retention of businesses for Louisiana and jobs for Louisiana citizens. This Rule will help to enhance the growth and stability of Louisiana's entrepreneurial business and/or industrial environment by making available regions to support this environment, and without this Rule the state may suffer the loss of business investment and economic development projects which would create or retain jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

Chapter 17. Regional Awards and Matching Grant Program

§1701. General

A. Act 17 of the 2006 Louisiana Legislature, providing for the general appropriations for the state of Louisiana for fiscal year 2006-07, appropriated \$5,625,000 to the Louisiana Department of Economic Development ("LED" or "department") for the Regional Awards and Matching Grant Program ("program"). The following rules are for the purposes of implementation of the program and to provide funding for projects in accordance with the goals of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:41 (January 2007).

§1703. Program Description

A. The program is designed to provide assistance to eligible economic development organizations in their comprehensive and strategic marketing and/or recruitment plans for towns, cities, parishes and regions as a site for new and/or expanded business development. The program has two objectives:

1. Regional Awards; and
2. Matching Grant Awards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:41 (January 2007).

§1705. Eligible Participants

A. Eligible applicants for the benefits of this program shall be nonprofit economic development organizations ("EDO") established in accordance with Louisiana law and in good standing in the state of Louisiana. The EDO must have as one of its primary objectives promoting Louisiana to national and world markets for business and industrial location and expansion. Applicants must have federal and state tax identification numbers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:41 (January 2007).

§1707. Qualifications

A. Eligible applicants may qualify for grants in the manner hereinafter provided under this program through either:

1. regional awards that are to be administered through an association of the EDOs acting in concert to promote regional economic development strategies for the region; or through
2. matching grants to an EDO or a combination of EDOs from LED for a specific project marketing industrial location and expansion.

B. Under either regional awards or matching grants, funding the awards must be for implementation of new programs through the fulfillment of deliverables in accordance with the goals and objectives as shall be hereinafter provided.

C. Eligible funding shall be consistent with the examples of eligible funding as provided by LED as an exhibit to the Cooperative Endeavor Agreements ("CEA") for either the Regional Awards or the Matching Grant Program. Generally, the exhibits to the CEA will provide for funding of core production costs of marketing and promotional activities and may distinguish the availability of allowable recovery for administrative costs between Regional Awards and Matching Grant Program awards as hereinafter provided.

D. Award agreements shall be executed and performed in accordance with statutes, rules and Executive Orders as administered by the Louisiana State Division of Administration, Office of Contract Review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:41 (January 2007).

§1709. Regional Awards ("Tier 1")

A. Regional Awards shall total 33 percent of the total appropriation of the Louisiana Legislature to this program and shall be allocated to the eight regions of this state in accordance with the map to be provided by LED. The regions will closely approximate the regions of the state presently served by LED regional representatives. Subject to Paragraph C.7 below, each region shall receive such portion of the available amount in accordance with its percentage of

population of the state as established by the most recent census of the state. The Secretary of LED shall determine the association of the EDOs for each region with which the department will enter into a CEA through which deliverables reflective of the goals and objectives of this program shall be established. The EDO identified by the Regional Association and approved by LED as the fiduciary agent for the region shall be responsible for coordination within the region to provide for the delivery of certain administrative documents. The costs related to the production of these documents are to be paid for using funds provided by Louisiana Economic Development (LED).

B. Each region shall produce the following core deliverables as a minimum: A labor survey, (regional funds may also be used to pay for synchronist use fees), an inventory of industrial/commercial buildings, an inventory of industrial/commercial building sites, an inventory of industrial parks with available building sites, a comprehensive existing business and industry report (regional overview, major employers, etc.), a comprehensive feature attraction report, a comprehensive new infrastructure report, and all available annual reports from major institutions within the region (colleges, hospitals, etc.). LED, at its sole discretion, may also require additional deliverables from any region. The balance of regional funds available shall be spent based on a written plan submitted to and approved by LED. This plan will be approved by the issuance and execution of a Cooperative Endeavor Agreement which will be drafted by LED after submission of a Regional Award application.

C. At a minimum, each regional association shall demonstrate the following to the secretary of LED:

1. that its core responsibility is to market and promote the recruitment of new and diversified businesses in accordance with a regional marketing plan;
2. that it will act in a fiduciary manner for the EDOs of the region;
3. that it has the capacity to administer the cooperative endeavor agreements (CEAs) for the region;
4. that it has the capacity to act as a fiscal agent for the funds made available to the region in accordance with the CEA;
5. that it is constituted by EDOs representing a majority of the parishes and a majority of the population in the region;
6. that the terms of agreement through which the regional association operates provide for participation by the EDO of each parish of the region through rotation of duties and responsibilities in the administration of the deliverables, goals, objectives and funding of the CEA between the association and LED;
7. that it is acting to market and promote regional development in accordance with a Regional Marketing Plan that is either established by the association or is adoptive of the strategic marketing plans developed by the EDOs comprising the association; and
8. notwithstanding population percentages for each region, the minimum funding for any region is \$150,000 and the maximum amount of funding for any region is \$500,000.

D. LED and each regional association shall enter into agreements that shall include deliverables, goals and

objectives for projects to be funded by the regional association for eligible EDOs in the region. In addition to deliverables, goals and objectives and such other necessary terms and conditions as may be provided by the CEA between LED and the regional association, projects shall be funded only upon providing the following:

1. a detailed budget and complete description of fund use;
2. demonstration that regional marketing initiatives are being addressed through the funding;
3. use of no more than 20 percent of the funding for eligible administrative costs;
4. data base, labor surveys, real estate information, industrial site and building surveys and selection and other empirical data obtained or used in connection with the award shall be provided to the LED for its research and data collection use;
5. the secretary of LED may vary the terms and conditions of the CEA with regional associations including deliverables, goals and objectives and exhibits in order to accomplish necessary and appropriate marketing and promotion of business and industrial development and redevelopment in those regions including parishes of the state most affected by the hurricanes of 2005; and
6. the agreement shall provide for submission of projects meeting the goals and objectives of the agreement by the regional association for advance approval by LED and for funding of the project by LED upon completion of the project and the submission by the regional association of the deliverables in accordance with the goals and objectives of the agreement.

E. Tier 1—LED Regional Funds—Eligible Uses

Tier 1—LED Regional Funds—Eligible Uses
Examples of eligible projects to be included by exhibit to the cooperative endeavor agreements between LED and the regional economic development associations:
<ul style="list-style-type: none"> • Specific, time-limited research studies.
<ul style="list-style-type: none"> • Up to 20 percent of funds may be used for administrative costs (e.g., salaries, benefits etc.).
<ul style="list-style-type: none"> • Promotion through inclusion in computer databases to targeted audiences such as relocation consultants.
<ul style="list-style-type: none"> • Direct mail pieces to targeted audiences such as relocation consultants (does not include postage).
<ul style="list-style-type: none"> • Trade show exhibit fees and/or registration fees for out-of-state events that support national or international strategic marketing events. Costs may include booth design, giveaway items or other show specific costs. No individual participant registration, travel or per diem costs.
<ul style="list-style-type: none"> • Production of printed materials, such as brochures and inserts.
<ul style="list-style-type: none"> • Production of slide presentations, videotapes, DVDs and CD ROMs intended for dissemination to relocation consultants, corporate executives, or other industry or business representatives involved in expansion or relocations activities.
<ul style="list-style-type: none"> • Advertising through mass media, including newspaper, magazines, radio, television, Internet and billboards.
<ul style="list-style-type: none"> • Public relations expenses related to the production of an event, such as production of media kits, media training, ongoing media contact, on-site coordination of media, set-up of interview area and media room, and costs associated with special broadcast media set-up requirements.
<ul style="list-style-type: none"> • Design of an Internet web site, not for ongoing Internet access or website hosting costs.
<ul style="list-style-type: none"> • Familiarization tours for site location consultants. To be used for consultant related expenses only, and may include consultant travel, meals, and lodging.

F. Tier 1—LED Regional Funds—Ineligible Uses

Tier 1—LED Regional Funds—Ineligible Uses
Examples of ineligible projects to be included by exhibit to the cooperative endeavor agreements between LED and the regional economic development associations. Examples of ineligible projects or expenses:
<ul style="list-style-type: none"> • Salaries, benefits or administrative fees exceeding 20 percent of funds provided.
<ul style="list-style-type: none"> • Entertainment.
<ul style="list-style-type: none"> • Overhead expenses (office space, furniture, fixtures, equipment, etc.).
<ul style="list-style-type: none"> • Travel, food, beverages, and/or lodging for any persons. This includes volunteers and paid staff of economic development organizations.
<ul style="list-style-type: none"> • Equipment purchases/rentals.
<ul style="list-style-type: none"> • Beauty pageants, parades, school advertising, local promotions, sponsorships and things of a similar nature.
<ul style="list-style-type: none"> • Promotional items, unless part of an out-of-state marketing activity.
<ul style="list-style-type: none"> • Stationery, toll-free numbers, membership solicitation literature.
<ul style="list-style-type: none"> • Unreasonable and excessive agency costs that exceed 25 percent of the total cost for printed material (Agency costs are costs not billed directly from prepress, printing, illustrations or photography by vendors.).
<ul style="list-style-type: none"> • Unreasonable or excessive technical costs.
<ul style="list-style-type: none"> • Construction costs.
<ul style="list-style-type: none"> • Activities or materials that violate the law.
<ul style="list-style-type: none"> • Internet access or web site hosting costs.
<ul style="list-style-type: none"> • Organization membership directories.
<ul style="list-style-type: none"> • Trade show/expo hosting or sponsorships.
<ul style="list-style-type: none"> • Alcoholic beverages.
<ul style="list-style-type: none"> • Infrastructure such as land, roads, utilities or buildings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:41 (January 2007).

§1711. Matching Grant Awards ("Tier 2")

A. The remainder of funds available shall be for matching grant awards. Any eligible EDO or a combination of eligible EDOs may apply to LED for a matching grant award which shall include deliverables, goals and objectives for the marketing and promotion of business and industrial development consistent with regional and statewide strategic marketing for such development. Matching Grant applications demonstrating the use or development of new or innovative programs for the marketing and promotion of business and industrial development shall be given a preference in determining suitability for the matching grant.

B. The award agreement may provide such terms and conditions as are necessary to the fulfillment of the purposes of the award and shall include the following terms and conditions:

1. the award may not exceed \$100,000;
2. the award must be matched dollar for dollar or its equivalents by the EDO or combination of EDOs making application for the award;
3. a detailed budget and complete description of fund use;
4. data, surveys and/or other empirical information obtained or used in connection with the award shall be provided to the LED for its research and data collection use; and
5. the secretary of LED may vary the terms and conditions of the award including deliverables, goals and

objectives and exhibits in the parishes of the state most affected by the hurricanes of 2005 so as to use such grants or awards to achieve a stabilization of resources for the EDOs in the affected areas.

C. Tier 2—LED Matching Grant Funds—Eligible Uses

Tier 2—LED Matching Grant Funds—Eligible Uses
Examples of eligible projects to be included by exhibit to the cooperative endeavor agreements between LED and the direct grant recipients:
<ul style="list-style-type: none"> • Specific, time-limited research studies.
<ul style="list-style-type: none"> • Promotion through inclusion in computer databases to targeted audiences such as relocation consultants.
<ul style="list-style-type: none"> • Direct mail pieces to targeted audiences such as relocation consultants (does not include postage).
<ul style="list-style-type: none"> • Trade show exhibit fees and/or registration fees for out-of-state events that support national or international strategic marketing events. Costs may include booth design, giveaway items or other show specific costs. No individual participant registration, travel or per diem costs.
<ul style="list-style-type: none"> • Production of printed materials, such as brochures and inserts.
<ul style="list-style-type: none"> • Production of slide presentations, videotapes, DVDs and CD ROMs intended for dissemination to relocation consultants, corporate executives, or other industry or business representatives involved in expansion or relocations activities.
<ul style="list-style-type: none"> • Advertising through mass media, including newspaper, magazines, radio, television, Internet and billboards.
<ul style="list-style-type: none"> • Public relations expenses related to the production of an event, such as production of media kits, media training, ongoing media contact, on-site coordination of media, set-up of interview area and media room, and costs associated with special broadcast media set-up requirements.
<ul style="list-style-type: none"> • Design of an Internet web site, not for ongoing Internet access or website hosting costs.
<ul style="list-style-type: none"> • Familiarization tours for site location consultants. To be used for consultant related expenses only, and may include consultant travel, meals, and lodging.

D. Tier 2—LED Matching Grant Funds—Ineligible Uses

Tier 2—LED Matching Grant Funds—Ineligible Uses
Examples of ineligible projects to be included by exhibit to the cooperative endeavor agreements between LED and the direct grant recipients. Examples of ineligible projects or expenses:
<ul style="list-style-type: none"> • Salaries, benefits or administrative fees.
<ul style="list-style-type: none"> • Entertainment.
<ul style="list-style-type: none"> • Overhead expenses (office space, furniture, fixtures, equipment, etc.).
<ul style="list-style-type: none"> • Travel, food, beverages, and/or lodging for any persons. This includes volunteers and paid staff of economic development organizations.
<ul style="list-style-type: none"> • Equipment purchases/rentals.
<ul style="list-style-type: none"> • Beauty pageants, parades, school advertising, local promotions, sponsorships and things of a similar nature.
<ul style="list-style-type: none"> • Promotional items, unless part of an out-of-state marketing activity.
<ul style="list-style-type: none"> • Stationery, toll-free numbers, membership solicitation literature.
<ul style="list-style-type: none"> • Unreasonable and excessive agency costs that exceed 25 percent of the total cost for printed material (Agency costs are costs not billed directly from prepress, printing, illustrations or photography by vendors.).
<ul style="list-style-type: none"> • Unreasonable or excessive technical costs.
<ul style="list-style-type: none"> • Construction costs.
<ul style="list-style-type: none"> • Activities or materials that violate the law.
<ul style="list-style-type: none"> • Internet access or web site hosting costs.
<ul style="list-style-type: none"> • Organization membership directories.
<ul style="list-style-type: none"> • Trade show/expo hosting or sponsorships.
<ul style="list-style-type: none"> • Alcoholic beverages.
<ul style="list-style-type: none"> • Infrastructure such as land, roads, utilities or buildings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:43 (January 2007).

Michael J. Olivier
Secretary

0701#046

RULE

**Department of Economic Development
Office of the Secretary
Office of Business Development
Economic Development Corporation**

**Workforce Development and Training Program
(LAC 13:III.303 and 311)**

The Department of Economic Development, the Office of the Secretary, the Office of Business Development, and the Louisiana Economic Development Corporation, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 51:2331 et seq., 36:104, 36:108 and 51:2312, hereby amends and supplements portions of LAC 13:Part III, Chapter 3, being the Rules of the Workforce Development and Training Program.

The Department of Economic Development, the Office of the Secretary, the Office of Business Development, and the Louisiana Economic Development Corporation, have found a need to amend and supplement the Rules for the regulation of the Workforce Development and Training Program in order to provide in Section 303 thereof a definition of the term "Quality Jobs"; and to amend and provide in Section 311, Subsection B.1, that the creation of jobs meeting Louisiana standards for quality jobs or the training of employees holding jobs meeting Louisiana standards for quality jobs satisfies the criteria for awards under this program. These revisions to these Rules will help to enhance the growth and stability of Louisiana's entrepreneurial business and/or industrial environment by making available awards under this program to businesses creating such quality jobs and/or training employees holding such quality jobs; and without these revisions the state may suffer the loss of business investment and economic development projects which would create or retain jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

Chapter 3. Workforce Development and Training Program

§303. Definitions

* * *

Quality Jobs—employed positions which are not temporary positions meeting the Louisiana standards for *quality jobs* as provided by the "Louisiana Quality Jobs Program Act", R. S. 51:2451 through 2462, as codified in the Louisiana Administrative Code, Title 13, Part I, Chapter 11, Sections 1101 through 1131, as amended.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq., 36:104, 36:108 and 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:44 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:242 (February 1999), LR 25:1665 (September 1999), LR 26:241 (February 2000), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:1065 (July 2003), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development, and Louisiana Economic Development Corporation, LR 33:44 (January 2007).

§311. Criteria

A. - A.4. ...

B. Pre-Employment, Upgrade and On-the-Job Training

1. Applicants must create in this state at least 10 net new full-time permanent jobs or at least 10 net new jobs meeting Louisiana standards for quality jobs, unless upgrade training is involved. Upgrade training must be provided to a minimum of 10 full-time permanent employees or to a minimum of 10 employees holding jobs meeting Louisiana standards for quality jobs.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq., 36:104, 36:108 and 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:45 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1642 (December 1997), LR 25:243 (February 1999), LR 25:1666 (September 1999), LR 26:242 (February 2000), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:1066 (July 2003), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development, and Louisiana Economic Development Corporation, LR 33:44 (January 2007).

Michael J. Olivier
Secretary

0701#045

RULE

Board of Elementary and Secondary Education

Bulletin 1674—Safety Manual for Career and Technical Education Programs (LAC 28:CXXXIII.Chapters 1-31)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted *Bulletin 1674—Safety Manual for Career and Technical Education Programs*. Bulletin 1674 will be printed in codified format as Part CXXXIII of the Louisiana Administrative Code. This document replaces any previously advertised versions. The Safety Manual for Career and Technical Education programs provides a guide for safety curriculum and instruction, and serves as a general reference checklist for safety and health concepts taught and adhered to within Louisiana career and technical education courses. It is also intended for school and district administrators and school board members to use as a vision for safety and health education and as a basis for planning resource allocations, materials purchases, local curriculum

development, teachers' professional development, and faculty recruitment.

Title 28
EDUCATION

**Part CXXXIII. Bulletin 1674—Safety Manual for
Career and Technical Education Programs**
Subpart 1. General Provisions

Chapter 1. Introduction

§101. Purpose

A. Rapid changes are occurring in our world and economy. The increasing complexity of work that spans the entire work force of today's society demands that education for all students be made more relevant and useful to future careers.

B. To prepare Louisiana Agricultural Education, Technology Education and Trade and Industrial Education Students to meet the demands of society and the workplace in the twenty-first century, industry-based certification standards were developed to address content knowledge and the application of skills. These standards focus on what students should know, be able to do, and be able to demonstrate in the workplace. They promote and develop critical thinking processes, which students will use in the classroom and real work applications, address the diversity of educational needs of Louisiana students enrolled in Career and Technical Education courses, and address industry-based certification programs for employability. This must be accomplished in a safe environment.

C. The Safety Manual for Career and Technical Programs was written to fulfill the need for an up-to-date industry-based practical educational resource that focuses upon the needs of teachers, supervisors, and students involved in laboratory instruction at the secondary level in Louisiana public schools. It is also intended for use in:

1. universities;
2. career centers;
3. high schools; and
4. junior high school career and technical education laboratories.

D. Louisiana has made significant strides toward improving the education of our children. Our goal is to build our strengths as we continue to improve education in our state. By developing rigorous standards and challenging assessments that align with industry-based standards and by holding schools accountable for results, we are ensuring a better future for our children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:45 (January 2007).

§103. Intended Audience

A. The Safety Manual for Career and Technical Programs is intended for a broad audience, including agriculture, technology, trade and industrial education teachers, parents, school and district administrators, school board members, policy makers, Louisiana Department of Education staff, college/university faculty/administrators, business/industry leaders, and government agency staff. The framework serves as a guide for safety curriculum and instruction, and as a general reference "checklist" to the safety and health concepts and skills taught and adhered to within Louisiana career and technical education courses. The intended users of the framework include:

1. career and technical education teachers to use in planning curriculum, instruction, and assessment;
2. parents to use as a means of assessing the safety and effectiveness of their children's career and technical laboratories;
3. school and district administrators and school board members to use as a vision for safety and health education and a basis for planning resource allocations, materials purchases, local curriculum development, teachers' professional development, and faculty recruitment;
4. policy makers and state education staff to use as a basis for:
 - a. developing and obeying laws;
 - b. health and safety policies;
 - c. professional development activities and materials;
 - d. assessment strategies; and
 - e. funding priorities to support local program development;
5. university faculty and administrators to use as a basis for the content and design of pre-service and in-service teacher education programs regarding safety and health instruction;
6. business/industry leaders and government agency staff to use as a basis for developing effective partnerships for supporting safety and health education programs and professional development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:45 (January 2007).

§105. How Teachers Should Use This Publication

A. This Part outlines the appropriate content to be taught in Louisiana Career and Technical Education programs that require laboratories. Local needs will determine how this should be taught in local career and technical education programs. Teachers will be able to use this framework to guide them in the restructuring of their laboratory curricula. This document contains specific performance criteria essential to laboratory safety education. These specific assessment criteria must be supported on the local level by all individuals involved in the educational process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:45 (January 2007).

Chapter 3. Elements of a Successful Safety, Health and Environment Program

§301. Overview

A. The key to preventing harm to school employees, students, and the environment is to establish a good occupational safety, health, and environmental program.

B. A good program may take years to put in place, but the guidelines below are a good place to begin. Start with individual items or parts of items. The guidelines are divided into five sections:

1. identify and prioritize potential hazards;
2. eliminate, prevent, and control hazards;
3. train employees, students, and management;
4. assure management commitment;
5. assure employee and student involvement:
 - a. the occupational safety, health, and environmental safety program should be tailored to the

needs of the school, department, or school system. Small schools with limited resources may form safety and health cooperatives with other schools to help manage all or parts of their programs.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:45 (January 2007).

§303. Identify, Prioritize Potential Hazards in Designated Areas

A. Designated Areas. Divide the school and associated structures into designated areas and sub-areas.

1. Designate structural or functional major areas of the school (i.e., administrative offices, classrooms, labs, etc.)

2. Designate sub-areas of each major area (i.e., specific office, classroom or lab, etc.).

B. Conduct walk-through inspections.

1. Each designated sub-area should be inspected to identify potential hazards associated with the equipment, materials and function of the area.

2. Checklists specific to the equipment, materials and function of the area (See Inspection Worksheets) can help identify hazards and determine whether the organization complies with applicable safety and health or environmental regulations.

C. Compile and/or update a hazardous material inventory.

1. Record:

a. the names and amounts of all hazardous materials used;

b. the means of their disposal; and

c. the occurrence of any spills or releases on the premises.

2. Collect and maintain Material Safety Data Sheets (MSDSs) for all hazardous materials listed in the inventory.

3. Determine which hazardous materials are regulated by federal, state or local agencies. These include:

a. the Occupational Safety and Health Administration (OSHA);

b. the Environmental Protection Agency (EPA); and

c. the Louisiana Department of Environmental Quality (LDEQ).

D. Maintain and update a process and equipment inventory.

1. Record the location of hazardous processes or equipment, and the dates when maintenance or monitoring must be performed.

2. Keep an inventory of safety equipment related to specific equipment and those who use it.

E. Establish a purchase screening procedure.

1. Establish a procedure for consideration of health and safety elements when purchasing goods and services and leasing new space. Avoiding a hazard is easier than controlling it.

2. Before any purchase of chemicals, equipment, or services, develop a system that may be reviewed by a safety representative or committee member.

3. Similarly, review plans for renovating, constructing, or leasing new facilities.

F. Investigate incidents, spills, and releases.

1. A safety representative or committee member should investigate every incident or release to determine how to prevent such a problem in the future.

2. A "Chemical Release" and other incident report forms should be developed. At a minimum, the form should have a space to answer, "What were the causes of the incident or release?" and "What precautions or controls could have prevented the incident or release?"

3. Employees and students should be encouraged to report *near hits* or *close calls* as well.

G. Record Evaluation

1. Evaluate injury and illness records.

a. The OSHA Log 300, a required employee occupational illness and injury record-keeping system, should be reviewed by persons responsible for safety and health on a regular basis.

b. Personal injury claims and workers' compensation claims may also identify whether certain classrooms, buildings, or processes pose an undue risk.

2. Evaluate environmental records.

a. Review existing records such as the hazard communication inventory, air permits, hazardous waste records, solid waste records, and medical waste records to identify chemicals or processes that should be substituted, recycled, or prevented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:46 (January 2007).

§305. Eliminate, Prevent, and Control Hazards

A. Hazard Elimination

1. Perform routine housekeeping.

a. Get rid of trash by disposing of it properly.

b. Make sure that hazardous chemicals and other materials are stored safely.

2. Provide regular equipment maintenance, repair, and replacement.

a. Equipment includes:

i. hazardous machinery;

ii. safety gear; and

iii. ventilation system.

b. Check that machine guards are in place.

c. Implement a maintenance and repair record-keeping system.

B. Hazard Control

1. Engineering Controls

a. The safety and health controls that are built into a process are referred to as "engineering controls". Engineering controls are the first in the hierarchy of controls that are used to reduce teachers' and students' exposure to a hazard.

b. Incorporate safety and health controls in the design of the process or operation rather than have students follow certain rules, wear protective gear, or clean up excess pollution.

c. Engineering controls may include:

i. substitution;

ii. isolation;

iii. enclosure; and

iv. ventilation of a process or equipment.

2. Work Practice Controls and/or Programs

a. Written safety procedures may be developed for specific operations or tasks to control or eliminate the associated hazards.

b. Written general programs for respiratory protection, vehicle safety, etc., will help to emphasize the importance of specific controls.

C. Hazard Protection

1. Provide personal protective equipment (PPE).

a. Respiratory Protections

i. Respiratory protection should be used only as a temporary or last-resort solution when engineering controls are inadequate to control the hazards.

ii. Respirators could be used routinely if job hazards require it.

b. Other forms of PPE could be required depending on the job and hazards involved and include:

i. hearing protection;

ii. welders' masks;

iii. hard hats;

iv. safety glasses or goggles.

c. Using PPE involves careful selection, maintenance, and user training.

2. Eyewash Facilities and Showers. Install eyewashes and/or showers near battery-changing stations, maintenance operations, heating and ventilating operations, and other processes that use corrosive chemicals or emit irritant aerosols.

D. Develop Emergency Response Plans and Procedures. (Additional guidance material may be found in Appendix F, Emergency Procedures, in the Safety Manual for Career and Technical Programs on the Louisiana Department of Education website (<http://www.doe.state.la.us/lde/index.html>).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:46 (January 2007).

§307. Employee, Management, and Student Training

A. Train all new employees and students. This training can be built into basic orientation and the curriculum.

B. Provide mandated training programs to employees and students.

1. Depending on the types of classes the school provides, training may be required on the following:

a. emergency procedures;

b. fire prevention and the use of fire extinguishers;

c. respiratory protection;

d. occupational noise exposure;

e. woodworking machinery;

f. welding;

g. asbestos handling;

h. hazard communication;

i. hazardous waste handling.

2. Training is also recommended for video display terminal operators.

3. Direct supervisors should receive the same training as the students or subordinates.

C. Train safety representatives and hazard prevention committees.

1. Training can enhance the ability of students and employees to carry out the functions listed in Subparagraphs a-i above. In particular, they may wish to obtain training in:

a. computerizing the program;

b. investigation of injuries or other incidents;

c. safety and environmental record keeping;

d. hazard identification and control;

e. industrial hygiene fundamentals; or

f. environmental regulations.

2. Outside training opportunities provide an essential means for safety, health, and environmental personnel to network with and learn from programs in other schools.

D. Training assistance may be obtained from various safety and health organizations, local industry and regulating agencies.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:47 (January 2007).

§309. Management Commitment

A. Top administration must be involved. The school board, superintendent, school principal, and top school administrators should all be leaders in implementing the program. They should stay informed and involved.

B. Develop a written safety and health policy.

1. Top administration should issue a written policy supporting a safe and healthy environment in the schools.

2. This policy may take the form of one or more policy statements or a policy manual that covers issues ranging from safety procedures to energy conservation.

3. The policy should be posted and/or issued to all employees and students.

C. Assure adequate personnel resources.

1. Assign appropriate individuals responsibility for the functions listed in the remaining sections of this Chapter. It is important to select people who are competent and motivated, and who have the skills and adequate resources to do the job.

2. Make sure adequate time is given to do the job.

D. Assure adequate financial resources.

1. Money must be allocated for the safety and health program.

2. Make sure adequate time is given to do the job.

E. Evaluate program performance regularly.

1. The occupational safety and health and environmental safety program should be a part of all performance reviews, including those of top administration, teachers, and students.

2. Acknowledge those who have been involved in identifying and correcting hazards and working safely.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:47 (January 2007).

§311. Employee and Student Involvement

A. Establish a hazard prevention committee.

1. A Hazard Prevention Committee should be composed of:

a. representatives of management;

b. school employees; and

c. perhaps students.

2. For such a committee to succeed it should:

a. be selected carefully;

b. have a clear idea of its mission, power, and functions; and

c. be skilled in conducting effective meetings.

3. This committee can do the following:

a. take on many of the functions described below that are too much for any one person;

- b. seek immediate input from all areas of the school, such as:
 - i. the classroom;
 - ii. maintenance; and
 - iii. purchasing;
- c. brainstorm by creatively combining and modifying ideas from many perspectives;
- d. improve communication among the various representatives;
- e. prioritize hazard controls, training, and other activities in a way that is satisfactory to all parties;
- f. establish a procedure for reporting potential hazards using a written form.

B. Communicate regularly.

- 1. Use newsletters, bulletin boards, paycheck envelopes, and class time to communicate new procedures and new safety assignments and to introduce new committee members.
- 2. Keep the program on people's minds. Make safety, health, and the environment a regular item on the agenda of staff, board, union, and PTA meetings.
- 3. Post committee minutes, reports, surveys, and (especially) memos referring to problems, solutions, and achievements.

C. Develop a hazard-reporting procedure.

- 1. Students and employees should be encouraged to look for and report potential hazards to the safety and health coordinator, or to the chairperson of the Hazard Prevention Committee.
- 2. Students may also report hazards to a teacher, the school principal, or to another responsible adult. The person who discovers the hazard should then fill out the designated form and submit it to the safety and health coordinator for follow-up action.
- 3. Students should fill out this form with the help of the safety and health coordinator.

NOTE: Teachers, safety committees, and supervisors should not be discouraged if only small parts of an occupational safety and health environmental safety program are in place early in the program. It takes time, money, and persistence to have a good program. Each new step is a great improvement over the way things were run before the program was in place.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:47 (January 2007).

Chapter 5. Curriculum Content

§501. Introduction

A. Career and technical instruction is important not only for the knowledge and skills it provides for the learner but, perhaps even more so, for the attitudes it imparts to the learner. These attitudes will, in large part, influence the manner in which the learner will employ his/her newly gained knowledge and skills. They become a formidable influence for the remainder of the learner's life.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:48 (January 2007).

§503. Two-Fold Objective

A. One of the most important attitudes a young person can pick up is a healthy respect for safety and health on the job. This attitude affects not only the learner, but all of the others with whom he/she will associate. Someday their very

lives may depend on having assumed a deep-seated conviction that the only way to do a job is the safe way. Therefore, educators have a two-fold objective:

- 1. to provide the job knowledge base in the area of the educator's own expertise in the best possible manner possible. Both the manual and mental skills must be provided that will best prepare the future worker for his/her job in this increasingly complex, technical world; and
- 2. an integral part of the instructional process must be safe methods for doing each and every job. Students must be taught, not as the best way to do a job, but as the only way to do a job. In other words, if a job is not performed safely, it is not performed correctly.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:48 (January 2007).

§505. Purposes of the Manual

A. The Manual serves two purposes.

1. The Manual provides guidelines that can be used to develop inspection checklists that can be used for instructional facilities. Students will recognize the measures that have implemented to make a workplace safe. They can participate in the inspections. When they go into the workplace of their eventual employment, they will be equipped to recognize the safety measures that are already in place, and they will know how to add what needs to be done to complete the safety and health process. The guidelines are found in Subpart 3, Inspection Worksheets.

2. The Manual provides five basic elements, listed in §507, that should be incorporated into the instructional materials to teach principles of safety and health along with the technical content of the curriculum. These elements should become an integral part of the instructional method, as if it were the only way to teach and perform the job. Students should understand that there is no alternative way to work other than the safe way.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:48 (January 2007).

§507. Curriculum Elements

A. Five Curriculum Elements

1. Safe Job Procedures. Each lesson plan must include emphasis on the step-by-step procedures to accomplish the project. Students must learn that the only way to do the job is by following the procedures. Short cuts are not permitted. Changes in procedures are allowed only when it can be shown that they are as safe, or safer, than the original procedures. The instructor must both set the tone and demonstrate the example of how it is done by his/her own work. It must be exemplary. The instructor will be the most memorable influence students will have.

2. Clean Workplace. Workplace housekeeping is probably the clearest indicator of the amount of emphasis that a safety program is getting. Safety professionals learned long ago that the impressions they get in the first few minutes on the job regarding the general cleanliness and order of the work site are accurate predictors of the rest of the safety program. Each classroom lesson must emphasize the importance of complete and thorough cleanup at the end of each work period. The lesson should also point out that hazards, such as spills, etc., may be created while work

progresses, and when this occurs, the project should be halted temporarily while the situation is corrected. Then work can continue.

3. Well-Maintained Equipment and Machinery. Instruction must include how to inspect machinery for signs of wear and damage. It must include proper preventive maintenance intervals and techniques. It must also include the proper and safe way to remove a defective piece of equipment from service and to secure it so that it cannot be used until the repairs have been completed.

4. Proper Use of Machines and Equipment

a. Students must learn that machine guards have a critical purpose that must never, under any circumstances, be circumvented. A machine must never be operated without all of its guards in place. If a student feels awkward or clumsy using the guards, special attention should be provided until he/she feels comfortable with the guards in place.

b. A student should always be taught the importance of using the proper tool for the job, and the right way to use that tool. Operating parameters such as adjustments, speeds, and other important factors must all be included. New trainees should be taught with the objective in mind that they will become experts on the equipment, and they can take great pride in their work and their newly acquired skills.

5. Personal Responsibility and Integrity. The entire structure of workplace safety and health rests upon the two pillars of responsibility and integrity. Students must understand that honesty is not just the best policy—it is the only policy. They must learn that, where workplace safety and health are concerned, reporting accidents promptly and accurately is of paramount importance. Problems can be corrected and hazards eliminated only when there is adequate factual information. Hiding details to avoid taking responsibility leads to exercises in futility when trying to correct problems. Instructors contribute by helping the student understand that an accident investigation is not an attempt to lay blame upon someone, but rather, an effort to find the sequence of events that went wrong, and to correct them so they will not occur again.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:48 (January 2007).

Subpart 3. Inspection Worksheets

Chapter 15. Emergency Procedures Worksheet

Subchapter A. Introduction

§1501. Worksheet Instructions

A. Use the following worksheet as a guide to conduct a survey of instructional facilities. Answer each of the listed questions by circling the answer that applies to the condition at the facility. "Y" indicates "Yes," "N" indicates "No," and "N/A" indicates "Not Applicable." If any of the questions are answered "N" for "No," it is the sign of a condition that may indicate a possible hazard. For every "N" marked, write a brief description of the deficient condition observed in the space provided at the end of the worksheet.

1. Additional guidance material may be found in Appendix F, Emergency Procedures, in the Safety and Health Manual on the Louisiana Department of Education website (<http://www.doe.state.la.us/lde/index.html>).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:49 (January 2007).

Subchapter B. Hazard Identification

§1507. Injuries and Illnesses

A. Medical Care

	Circle the Appropriate Answer
1. Are provisions made in advance of any project or class involving potential hazards for prompt medical attention in case of any injury?	Y N N/A
2. Is an injury/illness response program in place?	Y N N/A
3. Have persons with disabilities and/or chronic illnesses been identified?	Y N N/A
4. Are medical personnel available for advice and consultation?	Y N N/A
5. If emergency medical care is not readily available, is a certified person available to render first aid? <i>Certified Person</i> —a person who has a valid certificate in first-aid training from the American Red Cross, or equivalent training that can be verified by documentary evidence.	Y N N/A
6. Are first-aid supplies readily available?	Y N N/A
7. Are first-aid supplies in a weatherproof container with individual sealed packages for each type of item?	Y N N/A
8. Are first-aid supplies checked to replace expended items on a regular basis?	Y N N/A
9. Is transportation available for taking an injured or ill person to medical care if necessary, or is a communication system available for contacting an ambulance service?	Y N N/A
10. Are telephone numbers of physicians, hospitals, or ambulances conspicuously posted?	Y N N/A

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:49 (January 2007).

§1509. Emergency Response

A. Emergency Plans and Systems

	Circle the Appropriate Answer
1. Has an emergency action plan and procedures to respond to emergency situations been established?	Y N N/A
2. Have high potential hazards such as fire hazards, hazardous materials locations, hazardous equipment locations and other hazards and issues specific to the site been identified?	Y N N/A
3. Have emergency systems (i.e., fire alarms, sprinkler systems, etc.) and emergency equipment used for fire and spill control, etc., been identified?	Y N N/A
4. Is there a procedure to account for all persons on-site in the event of an emergency?	Y N N/A
5. Have personnel responsibilities for rescue and medical emergencies been established?	Y N N/A
6. Have mechanisms to report emergency situations to proper authorities been established?	Y N N/A

	Circle the Appropriate Answer
7. Are evacuation route maps posted in designated areas to display: a. emergency exists; b. primary and secondary exit routes; c. locations of: i. fire extinguishers; ii. fire alarm pull station locations; and iii. assembly points?	Y N N/A
8. Are all emergency procedures reviewed and updated on a regular basis?	Y N N/A

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:49 (January 2007).

§1511. Training

A. Certification and Training

	Circle the Appropriate Answer
1. Are all personnel and students instructed on injury, illness, emergency response procedures and their specific roles on a regular basis?	Y N N/A
2. Do designated certified persons obtain and maintain their certifications through the American Red Cross or other qualified organizations?	Y N N/A
3. Are periodic drills conducted to prepare students and personnel in the event of an emergency?	Y N N/A

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:50 (January 2007).

Subchapter C. Hazard Evaluation and Prioritization

§1519. Relative Risk Factors

A. Introduction

1. This part of the worksheet enables the instructor to examine each of the potential hazards (the "N" answers) that were identified in Subchapter B of this Chapter, Hazard Identification, and to assign it a value corresponding to its relative risk. *Relative Risk* is usually defined in terms of three factors:

- a. severity;
- b. frequency/probability; and
- c. exposure.

2. Each of the factors listed in Subparagraphs a-c is described in Subsections B-D.3 below and the point values are provided for the corresponding degree of risk.

NOTE: The greater the risk, the higher the point value.

B. Severity. Consider the potential losses or destructive and disruptive consequences that are most likely to occur if any of the hazards that have been identified in Subchapter B of this Chapter 15, Hazard Identification, result in an actual incident. The following point values are suggested.

- 1. Four Points—Catastrophic:
 - a. loss of life;
 - b. permanent disability;
 - c. loss of entire facility;
 - d. permanent.

- 2. Three Points—Critical:
 - a. severe injury or illness with lost time;
 - b. major property damage;
 - c. no permanent disability or fatality;
 - d. interruption of activities for extended period of time.
- 3. Two Points—Marginal:
 - a. minor injury or illness;
 - b. minor property damage;
 - c. interruption of activities for more than one day.
- 4. One Point—Negligible:
 - a. probably no injury or illness;
 - b. no loss other than interruption of activities for a short period of time.

C. Frequency/Probability (Likelihood of Occurrence)

- 1. Consider the probability that a loss would occur. Ask yourself the following key questions.
 - a. How likely is it that things will go wrong as a result of the hazard that has been identified?
 - b. How often is the activity which creates the hazard performed?
 - c. How often is the hazard present?
- 2. Use the following point values.
 - a. Three Points—high probability of occurrence.
 - b. Two Points—moderate probability of occurrence.
 - c. One Point—low probability of occurrence.

D. Exposure. Consider the number of persons (students and faculty) who could be potentially affected by a worse case scenario caused by each of the potential hazards that have been identified. The following point values are suggested.

- 1. Three Points—many persons are affected frequently.
- 2. Two Points—a few persons are affected frequently.
- 3. One Point—a few persons are affected up to a few times per day.

E. Prioritization. Based on the analysis above, and using the hazard prioritization matrix below, prioritize the hazards identified in Subchapter B of this Chapter, and evaluated in §1519.B-D.3.

- 1. Step One. List each of the hazardous conditions that were identified in Subchapter B of this Chapter 15 in the first column of the worksheet.
- 2. Step Two. Based on the criteria given above in §1519.B-D.3, assign a point value for each hazard in each of the three columns.
- 3. Step Three. Add up the point values, horizontally, for each of the hazards.
- 4. Step Four. Rearrange the hazards that were identified in descending order with the one with the highest total point value first, then the one with the next-highest point value; and so on.

Hazard Prioritization Matrix				
Hazard Identified	Severity	Probability	Exposure	Total Points

5. Step Five. A list has just been developed of the potentially hazardous conditions existing at the school facility, based on their relative priority.

F. The items on the prioritized list with the highest point value will generally be those that are most serious, and should receive the greatest attention in terms of resources expended to eliminate it. As with all organizations, especially educational institutions, resources are without limitations. There is a finite amount of money, time, and personnel available to solve these problems. By prioritizing the hazards and concentrating on those with the highest priority, concentration will be on the "worst first." This is the smart way to allocate limited resources. Even though instructors might not get all the way through the list, there will be the satisfaction and peace of mind that comes with dealing with the "really important" problems first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:50 (January 2007).

Subchapter D. Hazard Control Measures

§1529. Control Categories

A. This Subchapter D is to implement those control measures that will either eliminate or minimize hazards to the point where they will become acceptable. Also, these control measures will be applied to the most serious hazards first, then to the next-most-serious, and so on.

B. Most control measures fall into one or more of three categories. Paragraphs 1-3 below list the three types and also outline the preferred sequence for applying the controls, as engineering controls are the most effective way to control a hazard, followed by administrative controls and finally by personal protective equipment. Many times, the most effective controls are a blending of all three types. They are:

1. engineering controls;
2. administrative controls; and
3. personal protective equipment (PPE).

C. Engineering Controls. Usually engineering controls are considered the most effective because, if they are successful, they eliminate the hazard, or remove it from the presence of people. When applying engineering controls, look for ways to:

1. design or redesign hazardous situations or equipment;
2. substitute safer materials in the place of dangerous ones; and
3. install guards or other protective devices.

D. Management/Administrative Controls. Management/administrative controls are next in line to be applied in the control of a hazard because they are the direct responsibility of the persons who are operating the facility. In an educational environment, that means the administration and faculty. These controls involve such things as:

1. implementation and enforcement of safe policies and procedures;
2. limitations on the exposure to hazards through work assignments;
3. number of persons involved in an activity, etc.; and
4. similar approaches.

E. Personal Protective Equipment (PPE). The last approach to hazard control involves the use of PPE. This is

because PPE does not eliminate the hazard but, rather, only establishes a barrier or shield between the hazard and the exposed person. If the exposed person does not have the correct type of PPE, or does not use it properly, then that person will be exposed to the full effect of the hazard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

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Chapter 17. Environmental Protection Worksheet

Subchapter A. Introduction

§1701. Worksheet Instructions

A. Use the following worksheet as a guide to conduct a survey of the instructional facility. Answer each of the listed questions by circling the answer that applies to the condition at the facility. "Y" indicates "Yes," "N" indicates "No," and "N/A" indicates "Not Applicable." If any of the questions are answered "N" for "No," it is the sign of a condition that may indicate a possible hazard. For every "N" marked, write a brief description of the deficient condition observed in the space provided at the end of the worksheet.

1. Additional guidance material may be found in Appendix E, Indoor Air Quality, in the Safety and Health Manual on the Louisiana Department of Education website (<http://www.doe.state.la.us/lde/index.html>).

NOTE: See Appendix E: Indoor Quality for additional guidance material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

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Subchapter B. Hazard Identification

§1707. Air Pollution Control

A. Air Pollution Control Permits

	Circle the Appropriate Answer
1. Are air pollution permits on file for the equipment or operations permitted under state regulations?	Y N N/A
2. Is a procedure in place to ensure air pollution control permits and certificates are applied for and received before the installation and operation of new equipment?	Y N N/A

B. Requirements for Gasoline-Powered Engines

	Circle the Appropriate Answer
1. Is the removal of any emission control device from a gasoline-powered engine prohibited except during repairs or replacement activities?	Y N N/A
2. When catalytic converters are replaced on automobiles, are they only replaced by the same type of converter as the original (i.e., oxidation, three-way, or three-way plus oxidation), and are they the same type of converter specified by the vehicle catalog?	Y N N/A

C. Volatile Organic Compound (VOC) Surface Cleaners. Questions in this Subsection C are based on EPA Reasonable Available Control Technology (RACT) guidelines for solvent cleaners.

	Circle the Appropriate Answer
1. Are all tanks that contain VOC equipped with a lid to prevent evaporation or escape of vapors when the tank is not in use? (e.g., auto body shops, metalworking shops, etc.)	Y N N/A
2. Do all unheated open-top surface cleaners with openings between 6 and 25 square feet (auto body shops): a. have a high liquid mark to prevent overfilling; b. have a wand that produces mist or droplets or delivers spray below 15 pounds per square inch (psi); c. have a freeboard ratio of 0.5 or greater?	Y N N/A
3. Do all unheated open-top surface cleaners with openings >25 square feet have either: a. a freeboard ratio of 0.75 or greater; or b. a freeboard ratio of 0.5 or greater and separation from windows, exhaust systems, and other sources of drafts?	Y N N/A
4. Do all heated open-top and surface cleaners have the following: a. a thermostat that automatically maintains temperature below the boiling point of the liquid; b. a cover that is kept closed except when processing parts; c. no agitating system that can cause splashing; and d. a freeboard ratio >0.75?	Y N N/A
5. In addition to meeting the above conditions, do all conveyerized surface cleaners have: a. a condenser with heat removal capacity greater than the input into the bath; b. a freeboard chiller or a vapor control system; c. covers protecting the conveyor inlet; d. outlet ports for reduction of losses when the cleaner is not in use; and e. hanging flaps when the unit is in use?	Y N N/A
6. Do written standard operating procedures govern the proper use, inspection, and maintenance of all surface cleaners?	Y N N/A
7. Have all persons using this equipment been trained in these standard operating procedures?	Y N N/A
8. Are copies of the standard operating procedures located at the cleaner?	Y N N/A

D. Surface Coating and Graphic Arts

	Circle the Appropriate Answer
1. Are all surface-coating operations done with controls to prevent emissions of VOCs? (paint spray booths, graphic arts shops) [RACT Reference 2, RACT Reference 3]	Y N N/A

E. Dry Cleaning Operations

	Circle the Appropriate Answer
1. Are petroleum-using dry cleaning operations with a manufacturer's total dryer capacity equal to or greater than 84 pounds equipped with a cartridge filter?	Y N N/A

	Circle the Appropriate Answer
2. Are all solvent filtration systems operated so that cartridge filters are allowed to drain for eight hours before removal?	Y N N/A
3. Are all leaking washers, dryers, filters, etc., that could result in VOC emissions corrected immediately?	Y N N/A
4. Is information about leak inspection and repair procedures clearly posted?	Y N N/A

F. Dry Cleaning Operations Using Perchloroethylene

	Circle the Appropriate Answer
1. Are all dry cleaning machines connected to a properly operated and maintained air pollution control device?	Y N N/A
2. Are all transfer dry cleaning units operated in a room or enclosure that vents all solvent vapors to an air pollution control device?	Y N N/A
3. Are policies in place to prevent the venting or release of perchloroethylene vapors at any time?	Y N N/A
4. Is a complete check for leaks performed weekly?	Y N N/A
5. Are condenser control devices operated at less than 45°F?	Y N N/A
6. Are the exhaust emissions from carbon absorbers checked weekly?	Y N N/A

G. Toxic Substances

	Circle the Appropriate Answer
1. Do all cold-cleaning machines using toxic substances have a 1-inch layer of water on the solvent surface, or a freeboard ratio of 0.75 or more?	Y N N/A
2. Are all waste solvents stored in closed containers with pressure relief systems?	Y N N/A
3. Are all spills cleaned up immediately, and are the wipe rags stored in covered containers?	Y N N/A
4. Do all heated-vapor machines have a device to shut off the sump heater if the solvent levels drop to the heater coils?	Y N N/A
5. Are all heated-vapor machines provided with a pollution control device designed to keep emissions below 0.045 lbs/hour?	Y N N/A
6. Are standard operating procedures written for all open-top surface cleaners that contain toxic substances?	Y N N/A
7. Do all persons using this equipment receive training in and adhere to the standard operating procedures?	Y N N/A

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:51 (January 2007).

§1709. Indoor Air Quality

A. General

	Circle the Appropriate Answer
1. Is someone designated to develop and implement an indoor air quality management plan for your school district?	Y N N/A

	Circle the Appropriate Answer
2. Does your district have an indoor air quality management plan that includes steps for preventing and resolving indoor air quality problems?	Y N N/A
3. Has your school district been tested for radon, and have radon-mitigation systems been installed where needed?	Y N N/A
4. Does your school district use integrated pest management in all areas?	Y N N/A
5. Is spot-treatment of pesticides used to control infested areas?	Y N N/A
6. Are all pesticide applicators trained in the safe use of pesticides?	Y N N/A
7. Have painted surfaces in your district been tested for lead-based paint, and has a lead control or removal program been implemented?	Y N N/A
8. Are school buildings inspected once or twice each year for conditions that may lead to indoor air quality problems?	Y N N/A
9. Is a preventive maintenance schedule established and in operation for the heating, ventilation, and air conditioning (HVAC) system? Is the schedule in accordance with the manufacturer's recommendations or accepted practice for the HVAC system?	Y N N/A
10. Does the HVAC preventive maintenance schedule include the following: a. checking and/or changing air filters and belts; b. lubricating equipment parts; c. checking the motors; and d. confirming that all equipment is in operating order?	Y N N/A
11. Are damaged or inoperable components of the HVAC system replaced or repaired as appropriate?	Y N N/A
12. Are reservoirs or parts of the HVAC system with standing water checked visually for microbial growth?	Y N N/A
13. Are water leaks that could promote growth of biologic agents promptly repaired?	Y N N/A
14. Are damp or wet materials that could promote growth of biologic agents promptly dried, replaced, removed, or cleaned?	Y N N/A
15. Are microbial contaminants removed from ductwork, humidifiers, other HVAC, building system components, and from building surfaces (i.e., carpeting and ceiling tiles) when found during regular or emergency maintenance activities or visual inspection?	Y N N/A
16. Is general or local exhaust ventilation used where housekeeping and maintenance activities could reasonably be expected to result in exposure to hazardous substances above applicable exposure limits?	Y N N/A
17. When point sources generate airborne concentrations of contaminants above applicable limits, are local exhaust ventilation or substitution used to reduce the exposure concentrations to below the limits?	Y N N/A
18. When the carbon dioxide level exceeds 1,000 parts per million, is the HVAC system checked and repaired as necessary to ensure the system is operating properly?	Y N N/A
19. When the temperature is outside the range of 68° to 79°F, is the HVAC system checked and repaired as necessary to ensure the system is operating properly?	Y N N/A
20. Are humidity levels maintained between 30 percent to 60 percent relative humidity?	Y N N/A

	Circle the Appropriate Answer
21. When a contaminant is identified in the make-up air supply, is the source of the contaminant eliminated, or are the make-up inlets or exhaust air outlets relocated to avoid entry of the contaminant into the air system?	Y N N/A
22. If buildings do not have mechanical ventilation, are windows, doors, vents, stacks, and other portals used for natural ventilation operating properly?	Y N N/A
23. Are complaints promptly investigated that may involve a building-related illness?	Y N N/A

B. Smoking

	Circle the Appropriate Answer
1. Is smoking in school buildings prohibited except as part of a classroom instruction or a theatrical production?	Y N N/A
2. Do written district board of education policies and procedures prohibit smoking in school buildings?	Y N N/A

C. Renovations and Remodeling

	Circle the Appropriate Answer
1. During renovation work or new construction, are local ventilation or other protective devices used to safeguard employees and students from dust, stones, other small particles, and toxic gases, which may be harmful in certain quantities?	Y N N/A
2. Are renovation areas in occupied buildings isolated so that dust and debris is confined to the renovation or construction area?	Y N N/A
3. Are precautions implemented in case lead-based paint is disturbed during renovation or new construction?	Y N N/A
4. When renovating or during new construction, are product labels checked, or is information obtained on whether paints, adhesives, sealants, solvents, insulation, particleboard, plywood, floor coverings, carpet backing, textiles, or other materials contain volatile organic compounds that could be emitted during regular use?	Y N N/A
5. Are employees notified at least 24 hours in advance, or promptly in emergency situations, of work to be performed on the building that may introduce air contaminants into their work area?	Y N N/A

D. Shafting

	Circle the Appropriate Answer
1. Is the maintenance schedule updated to show all maintenance performed on the building systems?	Y N N/A
2. Does the maintenance schedule include the dates that the building systems maintenance was performed and the names of the persons or companies performing the work?	Y N N/A

	Circle the Appropriate Answer
3. Are maintenance schedules retained for at least three years?	Y N N/A

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:52 (January 2007).

§1711. Hazardous Waste Management

A. Generators of Regulated Amounts of Hazardous Waste

	Circle the Appropriate Answer
1. Does the container storing hazardous waste meet U.S. Department of Transportation container requirements?	Y N N/A
2. Is the container storing hazardous waste in good condition?	Y N N/A
3. Is the container storing hazardous waste compatible with the waste material? (For instance, solvents and paint waste should be placed in steel drums, but acidic or alkaline waste should not be placed in steel drums.)	Y N N/A
4. Is the container storing hazardous waste kept securely closed when not in use?	Y N N/A
5. Are unused keyways filled up or covered?	Y N N/A
6. Is the container storing hazardous waste at or near the point of generation and under the operator's control?	Y N N/A
7. Is the container storing hazardous waste marked with the words "Hazardous Waste"?	Y N N/A
8. If the container is being shipped for disposal, have arrangements been made for a licensed treatment, storage, and disposal (TSD) facility to accept the hazardous waste? <i>Note: Although the school is responsible for completing manifest forms, the TSD facility handling the waste should be consulted about completing the paperwork necessary to ship hazardous waste.</i>	Y N N/A
9. If the container is being shipped for disposal, have arrangements with the registered hazardous waste hauler been made for transport of wastes to the TSD facility?	Y N N/A
10. Have hazardous waste manifests been completed for all shipments of hazardous wastes within your state (or other state's manifest for shipments to other states)?	Y N N/A
11. Has a copy of the manifest with the signature of the initial transporter and date of shipment been retained by the school?	Y N N/A
12. Has the hauler been supplied with all remaining copies of the manifest?	Y N N/A
13. Have "Land Ban" forms been completed prohibiting land disposal of affected wastes unless treated below regulatory levels?	Y N N/A
14. Have appropriate markings and labels been affixed to containers prior to shipment?	Y N N/A
15. Has the hauler's vehicle been inspected by the generator (or his/her designee) to ensure proper placarding before leaving the generator's premises?	Y N N/A

	Circle the Appropriate Answer
16. Has the school kept a copy of each signed manifest for at least three years, or until a copy is received from the owner and operator of the facility that received the waste, for at least three years?	Y N N/A
17. Has the school prepared and submitted a copy of a Biennial Report to the EPA regional administrator by March 1 of each even numbered year for all hazardous waste shipped off-site for treatment, storage, or disposal?	Y N N/A

B. Satellite Accumulation Sites

	Circle the Appropriate Answer
1. Is the quantity of acutely toxic waste less than 55 gallons or less than one quart for acutely toxic waste?	Y N N/A
2. If the quantities of hazardous waste exceed the amounts in question 1 above, are the containers moved within three days to a less than 90-day accumulation area, or off-site to an authorized facility?	Y N N/A

C. Small Quantity-Generator (Generate between 100 and 1,000 Kilograms of Hazardous Waste Per Month)

	Circle the Appropriate Answer
1. Have hazardous waste containers been accumulated at your facility for 180 days or less? <i>Note: If you store hazardous waste for more than 180 days, additional regulations apply which are not covered in this checklist. Contact your state environmental agency for additional information. The quantity of waste accumulated on-site may never exceed 6,000 kilograms. Wastes may be stored longer than 180 days for certain situations.</i>	Y N N/A
2. Are containers marked with accumulation start date?	Y N N/A
3. Are container labels visible?	Y N N/A
4. Are containers segregated according to waste type?	Y N N/A
5. Are the containers inspected weekly?	Y N N/A
6. Is there adequate aisle space between container rows? <i>Note: 18 inches between single stacked drums and 30 inches between double or triple stacked drums.</i>	Y N N/A
7. Is there immediate access to communication or alarm systems whenever hazardous waste is poured, mixed, or handled?	Y N N/A
8. Is there an adequate supply of fire extinguishers and spill control equipment in the accumulation area?	Y N N/A
9. Is there adequate water pressure to supply fire hoses?	Y N N/A
10. Is the fire fighting equipment, communications and alarm equipment, and decontamination equipment, spill control and water supply tested and maintained?	Y N N/A

	Circle the Appropriate Answer
11. Have the police, fire department, and emergency response teams been familiarized with the layout of the facility?	Y N N/A
12. Are there written agreements with emergency response contractors and equipment suppliers?	Y N N/A
13. Have arrangements been made with the local hospitals to familiarize them with the properties of the hazardous waste handled at your facility and the types of injuries, which may result from contact with these wastes? (This is usually a letter to the local hospitals identifying the wastes generated and the types of injuries that result from contact with the waste.)	Y N N/A
14. Is there an emergency coordinator on site or on call who is available to respond to an emergency? <i>Note: The emergency coordinator or his designee must respond to any emergencies that arise.</i>	Y N N/A
15. Is the following information posted next to the telephone: a. the name and address of the emergency coordinator; b. the location of fire extinguishers and spill control material, and if present, fire alarm; and c. the telephone number of the fire department, unless the facility has a direct alarm? <i>Note: In the event of a fire, explosion, or other release which could threaten human health outside the facility, or when the generator has knowledge that a spill has reached surface water, the generator must immediately notify the National Response Center (using their 24-hour toll free number 800-424-8802).</i>	Y N N/A
16. Are all employees thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies?	Y N N/A
17. Has the school notified the EPA regional administrator of any manifests that were not received for shipments made to a designated facility within 60 days?	Y N N/A

D. Large Quantity Generator (Generate More than 1,000 Kilograms of Hazardous Wastes per Month)

	Circle the Appropriate Answer
1. Have hazardous waste containers been accumulated at your facility for 90 days or less? <i>Note: If you store hazardous wastes for more than 90 days, additional regulations apply which are not covered in this checklist. Contact the Louisiana Department of Environmental Quality (LDEQ) at 225-342-1234 for additional information.</i>	Y N N/A
2. Are containers marked with accumulation start dates?	Y N N/A
3. Are container labels visible?	Y N N/A
4. Are containers segregated according to waste type?	Y N N/A
5. Are the containers inspected weekly?	Y N N/A

	Circle the Appropriate Answer
6. Are containers of ignitable and reactive wastes located greater than 50 feet from the facility's property line?	Y N N/A
7. Is there adequate aisle space between container rows?	Y N N/A
8. Is there immediate access to communication or alarm systems whenever hazardous waste is poured, mixed, or handled?	Y N N/A
9. Is there an adequate supply of fire extinguishers and spill control equipment in the accumulation area?	Y N N/A
10. Is there adequate water pressure to supply fire hoses?	Y N N/A
11. Is the fire fighting equipment, spill control and water supply tested and maintained?	Y N N/A
12. Have the police, fire department and emergency response teams been familiarized with the layout of the facility?	Y N N/A
13. Are there written agreements with emergency response contractors and equipment suppliers?	Y N N/A
14. Have arrangements been made with the local hospitals to familiarize them with the properties of the hazardous waste handled at your facility and the types of injuries, which may result from contact with these wastes? (This is usually a letter to the local hospitals identifying the wastes generated and the types of injuries that result from contact with the waste.)	Y N N/A
15. Has a contingency plan been developed describing the actions to be taken by facility personnel in the event of a fire, explosion or hazardous materials release?	Y N N/A
16. Does the plan describe arrangements with local authorities including fire police, and emergency medical services personnel, for handling such emergencies?	Y N N/A
17. Does the plan list telephone numbers for the emergency coordinator and alternates?	Y N N/A
18. Does the plan list the locations and capabilities of emergency equipment kept at the school including fire extinguishers, spill control equipment and communications and alarm systems and decontamination systems?	Y N N/A
19. Does the plan include primary and alternate evacuation routes for students and faculty?	Y N N/A
20. Is a copy of the plan available at the school for inspection?	Y N N/A
21. Has a copy of the plan been forwarded to local emergency agencies including: a. police; b. fire emergency medical; c. the local emergency planning committee; and d. any emergency response contractors who may be called upon during an accident?	Y N N/A
22. Are there provisions for updating the contingency plan as operations and/or personnel change?	Y N N/A
23. Is the training program directed by a person trained in hazardous waste management procedures?	Y N N/A

	Circle the Appropriate Answer
24. Is the training program designed to ensure that personnel are able to respond effectively?	Y N N/A
25. Does the training program include: a. procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment; b. key parameters for automatic waste feed cut-off systems; c. communications for alarm systems; d. response to fires or explosions; e. response to ground-water contamination incidents; and f. shutdown of operations?	Y N N/A
26. Does the plan include provisions for: a. the use of personnel safety equipment; b. procedures for using facility emergency and monitoring equipment; c. procedures for utilizing communications or alarm systems; d. response procedures for fires and explosions; e. ground water contamination response procedures?	Y N N/A
27. Is training provided for all employees of this facility within six months of the date of employment, or assignment to an area involving the handling of hazardous waste?	Y N N/A
28. Is training reviewed annually?	Y N N/A
29. Is training documented with the following information: a. job title for each position and the name of the person filling each job; b. a written job description; c. a description of the training given; and d. documentation of actual training?	Y N N/A
30. Are training records maintained for at least three years?	Y N N/A
31. Has the school contacted the transporter and/or owner or operator of the designated facility of any manifests which were not received for shipments made to a designated facility within 35 days?	Y N N/A
32. Has an Exception Report been submitted to the EPA regional administrator if the generator has not received a copy of the manifest within 45 days? <i>Note: Efforts to obtain the manifest must be documented.</i>	Y N N/A
33. Are Biennial Reports and Exception Reports kept on file for three years?	Y N N/A

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Subchapter C. Hazard Evaluation and Prioritization §1721. Relative Risk Factors

A. Introduction

1. This part of the worksheet enables the instructor to examine each of the potential hazards (the "N" answers) that were identified in Subchapter B of this Chapter 17, Hazard Identification, and to assign it a value corresponding to its relative risk. Relative risk is usually defined in terms of three factors:

- a. severity;
- b. frequency/probability; and
- c. exposure.

2. Each of the factors listed in Subparagraphs a-c is described in Subsections B-D.3 below, and the point values are provided for the corresponding degree of risk.

NOTE: The greater the risk, the higher the point value.

B. Severity. Consider the potential losses or destructive and disruptive consequences that are most likely to occur if any of the hazards that have been identified in Subchapter B of this Chapter 17, Hazard Identification, result in an actual incident. The following point values are suggested.

1. Four Points—Catastrophic:

- a. loss of life;
- b. permanent disability;
- c. loss of entire facility;
- d. permanent.

2. Three Points—Critical:

- a. severe injury or illness with lost time;
- b. major property damage;
- c. no permanent disability or fatality;
- d. interruption of activities for extended period of time.

3. Two Points—Marginal:

- a. minor injury or illness;
- b. minor property damage;
- c. interruption of activities for more than one day.

4. One Point—Negligible:

- a. probably no injury or illness;
- b. no loss other than interruption of activities for a short period of time.

C. Frequency/Probability (Likelihood of Occurrence)

1. Consider the probability that a loss would occur. Ask yourself the following key questions.

- a. How likely is it that things will go wrong as a result of the hazard that has been identified?
 - b. How often is the activity which creates the hazard performed?
 - c. How often is the hazard present?
2. Use the following point values.
- a. Three Points—high probability of occurrence.
 - b. Two Points—moderate probability of occurrence.
 - c. One Point—low probability of occurrence.

D. Exposure. Consider the number of persons (students and faculty) who could be potentially affected by a worst case scenario caused by each of the potential hazards that have been identified. The following point values are suggested.

1. Three Points—many persons are affected frequently.
2. Two Points—a few persons are affected frequently.
3. One Point—a few persons are affected up to a few times per day.

E. Prioritization. Based on the analysis above, and using the hazard prioritization matrix below, prioritize the hazards identified in Subchapter B of this Chapter and evaluated in §1721.B-D.3.

1. Step One. List each of the hazardous conditions that were identified in Subchapter B of this Chapter 17 in the first column of the worksheet.

2. Step Two. Based on the criteria given above in §1721.B-D.3, assign a point value for each hazard in each of the three columns.

3. Step Three. Add up the point values, horizontally, for each of the hazards.

4. Step Four. Rearrange the hazards that were identified in descending order with the one having the highest total point value first, then the one with the next-highest point value; and so on.

Hazard Prioritization Matrix				
Hazard Identified	Severity	Probability	Exposure	Total Point

5. Step Five. A list has just been developed of the potentially hazardous conditions existing at the school facility based on their relative priority.

F. The items on the prioritized list with the highest point value will generally be those that are most serious, and should receive the greatest attention in terms of resources expended to eliminate it. As with all organizations, especially educational institutions, resources are not without limitations. There is a finite amount of money, time, and personnel available to solve these problems. By prioritizing the hazards, and concentrating in order on those with the highest priority, concentration will be on the "worst first." This is the smart way to allocate limited resources. Even though instructors might not get all the way through the list, there will be the satisfaction and peace of mind that comes with dealing with the "really important" problems first.

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Subchapter D. Hazard Control Measures

§1731. Control Categories

A. This Subchapter D is to implement those control measures that will either eliminate or minimize hazards to the point where they will become acceptable. Also, these control measures will be applied to the most serious hazards first, then to the next-most-serious, and so on.

B. Most control measures fall into one or more of three categories. Paragraphs 1-3 below list the three types and also outline the preferred sequence for applying the controls, as engineering controls are the most effective way to control a hazard, followed by administrative controls and finally by PPE. Many times, the most effective controls are a blending of all three types. They are:

1. engineering controls;
2. administrative controls; and
3. personal protective equipment (PPE).

C. Engineering Controls. Usually engineering controls are considered the most effective because, if they are successful, they eliminate the hazard, or remove it from the presence of people. When applying engineering controls look for ways to:

1. design or redesign hazardous situations or equipment;

2. substitute safer materials in the place of dangerous ones; and

3. install guards or other protective devices.

D. Management/Administrative Controls. Management/administrative controls are next in line to be applied in the control of a hazard because they are the direct responsibility of the persons who are operating the facility. In an educational environment, that means the administration and faculty. These controls involve such things as:

1. implementation and enforcement of safe policies and procedures;

2. limitations on the exposure to hazards through work assignments, number of persons involved in an activity, etc.; and

3. similar approaches.

E. Personal Protective Equipment (PPE). The last approach to hazard control involves the use of PPE. This is because PPE does not eliminate the hazard but, rather, only establishes a barrier or shield between the hazard and the exposed person. If the exposed person does not have the correct type of PPE, or does not use it properly, then that person will be exposed to the full effect of the hazard.

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Chapter 19. Hazard Communication Worksheet

Subchapter A. General Provisions

§1901. Definitions

Article—a manufactured item other than a fluid or particle that:

1. is formed to a shape or design during manufacture;
2. has end use function(s) dependent in whole or in part on its shape or design during end use; and

3. under normal conditions of use does not release more than very small quantities, e.g., minute or trace amounts of a hazardous chemical, and does not pose a physical hazard or health risk to employees.

Hazardous Chemical—any chemical that is a physical hazard or a health hazard.

Health Hazard—a chemical for which statistically significant evidence exists that acute or chronic health effects may occur in exposed employees. This evidence must be based on at least one study conducted in accordance with established scientific principles.

Physical Hazard—a chemical for which scientifically valid evidence exists that it is:

1. a combustible liquid;
2. a compressed gas;
3. explosive;
4. flammable;
5. an organic peroxide;
6. an oxidizer;
7. pyrophoric (self igniting);
8. unstable (reactive) or water-reactive.

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§1903. Worksheet Instructions

A. Use the following worksheet as a guide to conduct a survey of the instructional facility. Answer each of the listed questions by circling the answer that applies to the condition at the facility. "Y" indicates "Yes," "N" indicates "No," and "N/A" indicates "Not Applicable." If any of the questions are answered "N" for "No," it is the sign of a condition that may indicate a possible hazard. For every "N" marked, write a brief description of the deficient condition observed in the space provided at the end of the worksheet.

1. Additional guidance material may be found in Appendix K, Material Safety Data Sheets Guidelines, in the Safety and Health Manual on the Louisiana Department of Education website (<http://www.doe.state.la.us/lde/index.html>).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:58 (January 2007).

Subchapter B. Hazard Identification

§1911. Elements of a Hazard Communication Program

A. Hazard Communication Program

	Circle the Appropriate Answer
1. Has a written hazard communication program been developed, implemented, and maintained at your worksite?	Y N N/A
2. Has a list of known hazardous chemicals at your facility been prepared?	Y N N/A
3. Have methods been developed to inform personnel and students of the hazards of non-routine tasks? <i>Note: Such tasks may include emergency response or equipment.</i>	Y N N/A
4. Are methods developed for communicating hazards to outside contractors or vendors who may be exposed to hazardous chemicals at your facility?	Y N N/A

B. Labels

	Circle the Appropriate Answer
1. Are all containers of hazardous chemicals in the workplace labeled, tagged, or marked with the identity of the hazardous chemical(s)?	Y N N/A
2. Are all containers of hazardous chemicals in the workplace labeled, tagged, or marked with the appropriate warnings?	Y N N/A
3. Are all containers of hazardous chemicals in the facility labeled, tagged, or marked with the name and address of the chemical manufacturer, importer, or other responsible party?	Y N N/A

	Circle the Appropriate Answer
4. If a container is received without a hazard warning label, is a good faith effort made to obtain the missing information from the manufacturer or supplier? <i>Note: Manufacturers are required to affix labels to all containers of hazardous chemicals when they are shipped. The following hazardous chemicals are exempt from this labeling requirement, although subject to other labeling requirements:</i> i. pesticides; ii. foods; iii. food additives; iv. color additives; v. drugs; vi. cosmetics vii. medical devices; viii. alcoholic beverages; ix. consumer products; x. hazardous waste; xi. tobacco products; and xii. wood products.	Y N N/A
5. Is removal or defacing of labels on incoming containers of hazardous chemicals prohibited?	Y N N/A
6. Are labels or other forms of warning legible in English and prominently displayed?	Y N N/A

C. Material Safety Data Sheets

	Circle the Appropriate Answer
1. Are material safety data sheets on hand for each hazardous chemical used and identified on the hazardous chemicals list?	Y N N/A
2. If a hazardous chemical has no material safety data sheet, are attempts made to obtain one from the chemical manufacturer or imported as soon as possible?	Y N N/A
3. Are material safety data sheets for the hazardous chemical kept in the facility and made readily accessible to personnel and students?	Y N N/A

D. Information and Training

	Circle the Appropriate Answer
1. Is information and training on hazardous chemicals in the worksite provided on initial assignment and whenever new physical hazards or health hazards are introduced into a facility area?	Y N N/A
2. Does the information provided include the operations performed at the worksite where hazardous chemicals are present?	Y N N/A
3. Does the information provided include the location and availability of the written hazard communication program, including the list of hazardous chemicals and material safety data sheets?	Y N N/A

	Circle the Appropriate Answer
4. Does the training provided include information about the methods and observations that may be used to detect the presence or release of a hazardous chemical in a work area such as: a. monitoring conducted by the employer; b. continuous monitoring devices; c. visual appearance or odor of hazardous chemicals when being released; d. etc.?	Y N N/A
5. Does the training provided include information about the physical hazards and health hazards of the chemicals in the work area?	Y N N/A
6. Does the training provided include information about the measures employees can take to protect themselves from these hazards, including procedures the school has implemented to protect employees from exposures to hazardous chemicals: a. appropriate work practices; b. emergency procedures; and c. personal protective equipment?	Y N N/A
7. Does the training provided include information about the details of the hazard communication program developed by the school, including: a. explanations of the labeling system; b. material safety data sheets; and c. how employees can obtain and use the appropriate hazard information?	Y N N/A

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:58 (January 2007).

Subchapter C. Hazard Evaluation and Prioritization
§1921. Relative Risk Factors

A. Introduction

1. This part of the worksheet enables the instructor to examine each of the potential hazards (the "N" answers) that were identified in Subchapter B of this Chapter 19, Hazard Identification, and to assign it a value corresponding to its relative risk. Relative risk is usually defined in terms of three factors:

- a. severity
- b. frequency/probability; and
- c. exposure.

2. Each of the factors listed in Subparagraphs a-c is described in Subsections B-D.3 below, and the point values are provided for the corresponding degree of risk.

NOTE: The greater the risk, the higher the point value.

B. Severity. Consider the potential losses or destructive and disruptive consequences that are most likely to occur if any of the hazards that have been identified in Subchapter B of this Chapter 19, Hazard Identification, result in an actual incident. The following point values are suggested.

- 1. Four Points—Catastrophic:
 - a. loss of life;
 - b. permanent disability;
 - c. loss of entire facility;
 - d. permanent.
- 2. Three Points—Critical:
 - a. severe injury or illness with lost time;
 - b. major property damage;
 - c. no permanent disability or fatality;

d. interruption of activities for extended period of time.

- 3. Two Points—Marginal:
 - a. minor injury or illness;
 - b. minor property damage;
 - c. interruption of activities for more than one day.
- 4. One Point—Negligible:
 - a. probably no injury or illness;
 - b. no loss other than interruption of activities for a short period of time.

C. Frequency/Probability (Likelihood of Occurrence)

1. Consider the probability that a loss would occur. Ask yourself the following key questions.

- a. How likely is it that things will go wrong as a result of the hazard that has been identified?
 - b. How often is the activity which creates the hazard performed?
 - c. How often is the hazard present?
2. Use the following point values.
- a. Three Points—high probability of occurrence.
 - b. Two Points—moderate probability of occurrence.
 - c. One Point—low probability of occurrence.

D. Exposure. Consider the number of persons (students and faculty) who could be potentially affected by a worst case scenario caused by each of the potential hazards that have been identified. The following point values are suggested.

- 1. Three Points—many persons are affected frequently.
- 2. Two Points—a few persons are affected frequently.
- 3. One Point—a few persons are affected up to a few times per day.

E. Prioritization. Based on the analysis above, and using the hazard prioritization matrix below, prioritize the hazards identified in Subchapter B of this Chapter 19 in the first column of the worksheet.

- 1. Step One. List each of the hazardous conditions that were identified in this Chapter 19, Subchapter B of the worksheet in the first column.
- 2. Step Two. Based on the criteria given above in §1921.B-D.3, assign a point value for each hazard in each of the three columns.
- 3. Step Three. Add up the point values, horizontally, for each of the hazards.
- 4. Step Four. Rearrange the hazards that were identified in descending order with the one having the highest total point value first, then the one with the next-highest point value; and so on.

Hazard Prioritization Matrix				
Hazard Identified	Severity	Probability	Exposure	Total Points

5. Step Five. A list has just been developed of the potentially hazardous conditions existing at the school facility based on their relative priority.

F. The items on the prioritized list with the highest point value will generally be those that are most serious, and should receive the greatest attention in terms of resources expended to eliminate it. As with all organizations, especially educational institutions, resources are not without limitations. There is a finite amount of money, time, and personnel available to solve these problems. By prioritizing the hazards and concentrating in order on those with the highest priority, concentration will be on the "worst first." This is the smart way to allocate limited resources. Even though instructors might not get all the way through the list, there will be the satisfaction and peace of mind that comes with dealing with the "really important" problems first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:59 (January 2007).

Subchapter D. Hazard Control Measures

§1931. Control Categories

A. This Subchapter D is to implement those control measures that will either eliminate or minimize hazards to the point where they will become acceptable. Also, these control measures will be applied to the most serious hazards first, then to the next-most-serious, and so on.

B. Most control measures fall into one or more of three categories. Paragraphs 1-3 below list the three types, and also outline the preferred sequence for applying the controls, as engineering controls are the most effective way to control a hazard, followed by administrative controls and finally by personal protective equipment. Many times, the most effective controls are a blending of all three types. They are:

1. engineering controls;
2. administrative controls; and
3. personal protective equipment (PPE).

C. Engineering Controls. Usually engineering controls are considered the most effective because, if they are successful, they eliminate the hazard, or remove it from the presence of people. When applying engineering controls, look for ways to:

1. design or redesign hazardous situations or equipment;
2. substitute safer materials in the place of dangerous ones; and
3. install guards or other protective devices.

D. Management/Administrative Controls. Management/administrative controls are next in line to be applied in the control of a hazard because they are the direct responsibility of the persons who are operating the facility. In an educational environment, that means the administration and faculty. These controls involve such things as:

1. implementation and enforcement of safe policies and procedures;
2. limitations on the exposure to hazards through work assignments, number of persons involved in an activity, etc.; and
3. similar approaches.

E. Personal Protective Equipment (PPE). The last approach to hazard control involves the use of PPE. This is because PPE does not eliminate the hazard but, rather, only establishes a barrier or shield between the hazard and the exposed person. If the exposed person does not have the correct type of PPE, or does not use it properly, then that person will be exposed to the full effect of the hazard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:60 (January 2007).

Chapter 21. Fire Prevention and Protection Worksheet

Subchapter A. General Provisions

§2101. Worksheet Instructions

A. Use the following worksheet as a guide to conduct a survey to determine the level of fire prevention and protection readiness for the instructional facility. Answer each of the listed questions by circling the answer that applies to the condition at the facility. "Y" indicates "Yes," "N" indicates "No," and "N/A" indicates "Not Applicable." If any of the questions are answered "N" for "No," it is the sign of a condition that may indicate a possible hazard. For every "N" marked, write a brief description of the deficient condition observed in the space provided at the end of the worksheet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:60 (January 2007).

Subchapter B. Hazard Identification

§2111. Facilities

A. Buildings and Functions

	Circle the Appropriate Answer
1. Are classroom and laboratory facilities separated?	Y N N/A
2. Are classes being conducted in more than one part of the building at a time?	Y N N/A
3. Do classrooms, laboratories, offices, lavatories, and other facilities empty into a common interior hallway?	Y N N/A
4. Does the building have more than one level or floor?	Y N N/A
5. If the building is multi-level, is there more than one stairway leading to egress (exit) from the building?	Y N N/A
6. Are means of egress (exit) from the building clearly marked?	Y N N/A
7. In the event of loss of power to the building, is there battery-powered emergency lighting that will be turned on automatically?	Y N N/A
8. Are exit facilities inspected daily to make sure that all stairways, doors, and other exists are in proper working condition?	Y N N/A
9. Are all exit paths free and unobstructed? <i>Note: Exit doors must not be locked, barred, or blocked in such a way as to prevent exit from the building.</i>	Y N N/A
10. Are wedges or devices holding exit doors open prohibited?	Y N N/A
11. Are all fire escapes, stairs, passageways, doors, and windows free of obstructions that would interfere with the operation of the fire department?	Y N N/A
12. Are all fire doors tight fitting and in good operational condition?	Y N N/A
13. Are all classroom doors self closing?	Y N N/A
14. Are openings in the walls, floors, or ceilings that would contribute to the spread of fire from one room to another repaired?	Y N N/A
15. Is the vertical clearance between sprinklers and material below (such as head deflectors) at least 18 inches?	Y N N/A

	Circle the Appropriate Answer
16. Are accumulations of flammable or combustible waste materials and residues removed so that they will not contribute to a fire? <i>Note: Examples of violations include open boxes of papers stored under the stairs and stored empty cardboard boxes.</i>	Y N N/A
17. Is adequate clearance maintained between stored materials and light fixtures to prevent possible ignition?	Y N N/A
18. Is the clearance between stored materials and unit heaters, radiant space heaters, furnace ducts, and flues not less than 3 feet in all directions or in accordance with the clearances shown on the approval agency label?	Y N N/A
19. Are furnishings or decorations of an explosive or highly flammable character prohibited?	Y N N/A
20. Are decorative materials such as curtains, draperies, streamers, and fabrics flame resistant?	Y N N/A
21. Do teaching materials and children's artwork cover 20 percent or less of the wall area?	Y N N/A

B. Occupants

	Circle the Appropriate Answer
1. Are any of the occupants handicapped in anyway?	Y N N/A
2. Are there ever any individuals in the facility who are not part of the regular occupants of the buildings?	Y N N/A
3. Are there ever times when there are only one or two occupants in the building/	Y N N/A

C. Applicable Codes

	Circle the Appropriate Answer
1. Have the NFPA Building, Life, Safety, and Electrical Codes been identified and consulted for applicability to this building and its purpose?	Y N N/A
2. Have municipality and school board safety codes been identified and consulted for applicability to this building and its purpose?	Y N N/A
3. Are all applicable codes being followed regarding the occupation use of this building?	Y N N/A
4. Are all applicable codes being followed regarding the installation, use and maintenance of equipment within the building?	Y N N/A

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:60 (January 2007).

§2113. Materials and Equipment

A. Flammable and Combustible Materials

	Circle the Appropriate Answer
1. Are flammable materials of any kind stored or used in the Area? a. Flammable materials are usually in either the liquid or gas form and include, but are not limited to: i. fuels; ii. welding gases; iii. paints; iv. solvents; v. thinners; vi. etc. b. These fuels are usually considered quite volatile, i.e., they are very watery and they evaporate rapidly.	Y N N/A
2. Are combustible materials of any kind stored or used in the area? a. Combustible materials are usually in the solid form and include, but are not limited to: i. wood; ii. plastics; iii. paper; iv. etc. b. Combustible materials may also include heavier liquid fuels such as lubricating oils and heating oils.	Y N N/A

B. Potential Ignition Sources

	Circle the Appropriate Answer
1. Is all electrical equipment, such as switches, portable power tools, motors, and other devices which may serve as a source of ignition, either prohibited in areas where flammable materials are stores or used, or allowed only when special procedures such as a "Hot Work Permit" are in force?	Y N N/A
2. Is internal-combustion-engine powered equipment located so that their exhausts are well away from combustible materials?	Y N N/A
3. When internal combustion engine exhausts are piped outside the building, is a clearance of at least 6 inches maintained between such piping and combustible materials?	Y N N/A
4. Are temporary heating devices used and stored away from flammable and combustible materials?	Y N N/A

C. Fire Protection Equipment

	Circle the Appropriate Answer
1. Are telephone numbers and other means for summoning the fire department clearly posted and available for all to use?	Y N N/A
2. Is access to firefighting equipment maintained at all times?	Y N N/A
3. Is firefighting equipment conspicuously located and visible, and is each location marked and identified?	Y N N/A

	Circle the Appropriate Answer
4. Is firefighting equipment periodically inspected and maintained and operating?	Y N N/A
5. Is a fire extinguisher, rated not less than 2A provided for each 3,000 square feet of protected building area?	Y N N/A
6. Is the travel distance to each fire extinguisher 100 feet or less?	Y N N/A
7. Are one or more fire extinguishers, rated not less than 2A provided on each floor?	Y N N/A
8. In multistory facilities, is at least one fire extinguisher located adjacent to the stairway?	Y N N/A
9. If more than 5 gallons of flammable or combustible liquid, or five pounds or more of flammable gas are present, is a fire extinguisher rated not less than 10B provided within 50 feet?	Y N N/A
10. Are portable fire extinguishers selected according to the classes of anticipated fires and the size and degree of hazards?	Y N N/A

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:61 (January 2007).

§2115. Work Methods

A. Material Handling Use

	Circle the Appropriate Answer
1. Are volatile, flammable materials used in such a way that gases and vapors from such materials are not allowed to escape the storage container, or are gases or vapors vented to a safe area?	Y N N/A
2. When not in use, are flammable and combustible materials kept in containers that are specifically designed for holding and storing such materials?	Y N N/A

B. Material Storage—Outdoor

	Circle the Appropriate Answer
1. Is stability maintained when combustible materials are piled?	Y N N/A
2. Are weeds and grass kept down and a regular procedure provided for periodic cleanup of outside storage areas?	Y N N/A

C. Material Storage—Indoor

	Circle the Appropriate Answer
1. Are indoor materials stored so that they do not obstruct or adversely affect the means of exit?	Y N N/A
2. Are indoor materials stored, handled, and piled to minimize the spread of fire, and permit convenient access for firefighting?	Y N N/A
3. Where sprinkler systems are installed, are indoor materials stored so that a clearance of at least 36 inches is maintained between the top level of stored materials and the sprinkler deflectors?	Y N N/A

	Circle the Appropriate Answer
4. Is proper clearance maintained around lights and heating units to prevent ignition of combustible materials?	Y N N/A
5. Is a clearance of at least 24 inches maintained around the path of travel of fire doors, unless a barricade is provided?	Y N N/A
6. Are materials stored more than 36 inches away from a fire door opening?	Y N N/A

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:62 (January 2007).

Subchapter C. Hazard Evaluation and Prioritization §2127. Relative Risk Factors

A. Introduction

1. This part of the worksheet enables the instructor to examine each of the potential hazards (the "N" answers) that were identified in Subchapter B of this Chapter 21, Hazard Identification, and to assign it a value corresponding to its relative risk. Relative risk is usually defined in terms of three factors:

- a. severity;
- b. frequency/probability; and
- c. exposure.

2. Each of the factors listed in Subparagraphs a-c is described in Subsections B-D.3 below, and the point values are provided for the corresponding degree of risk.

NOTE: The greater the risk, the higher the point value.

B. Severity. Consider the potential losses or destructive and disruptive consequences that are most likely to occur if any of the hazards that have been identified in Subchapter B of this Chapter 21, Hazard Identification, result in an actual incident. The following point values are suggested.

1. Four Points—Catastrophic:

- a. loss of life;
- b. permanent disability;
- c. loss of entire facility;
- d. permanent.

2. Three Points—Critical:

- a. severe injury or illness with lost time;
- b. major property damage;
- c. no permanent disability or fatality;
- d. interruption of activities for extended period of time.

3. Two Points—Marginal:

- a. minor injury or illness;
- b. minor property damage;
- c. interruption of activities for more than one day.

4. One Point—Negligible:

- a. probably no injury or illness;
- b. no loss other than interruption of activities for a short period of time.

C. Frequency/Probability (Likelihood of Occurrence)

1. Consider the probability that a loss would occur. Ask yourself the following key questions.

- a. How likely is it that things will go wrong as a result of the hazard that has been identified?
- b. How often is the activity which creates the hazard performed?
- c. How often is the hazard present?

2. Use the following point values.
 - a. Three Points—high probability of occurrence.
 - b. Two Points—moderate probability of occurrence.
 - c. One Point—low probability of occurrence.

D. Exposure. Consider the number of persons (students and faculty) who could be potentially affected by a worst case scenario caused by each of the potential hazards that have been identified. The following point values are suggested.

1. Three Points—many persons are affected frequently.
2. Two Points—a few persons are affected frequently.
3. One Point—a few persons are affected up to a few times per day.

E. Prioritization. Based on the analysis above, and using the hazard prioritization matrix below, prioritize the hazards identified in Subchapter B of this Chapter and evaluated in §2127.B-D.3.

1. Step One. List each of the hazardous conditions that were identified in Subchapter B of this Chapter 21 in the first column of the worksheet.

2. Step Two. Based on the criteria given above in §2127.B-D.3, assign a point value for each hazard in each of the three columns.

3. Step Three. Add up the point values, horizontally, for each of the hazards.

4. Step Four. Rearrange the hazards that were identified in descending order with the one having the highest total point value first, then the one with the next-highest point value; and so on.

Hazard Prioritization Matrix				
Hazard Identified	Severity	Probability	Exposure	Total Points

5. Step Five. A list has just been developed of the potentially hazardous conditions existing at the school facility based on their relative priority.

F. The items on the prioritized list with the highest point value will generally be those that are most serious, and should receive the greatest attention in terms of resources expended to eliminate it. As with all organizations, especially educational institutions, resources are not without limitations. There is a finite amount of money, time, and personnel available to solve these problems. By prioritizing the hazards and concentrating in order on those with the highest priority, concentration will be on the "worst first." This is the smart way to allocate limited resources. Even though instructors might not get all the way through the list, there will be the satisfaction and peace of mind that comes with dealing with the "really important" problems first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:62 (January 2007).

Subchapter D. Hazard Control Measures

§2135. Control Categories

A. This Subchapter D is to implement those control measures that will either eliminate or minimize hazards to the point where they will become acceptable. Also, these control measures will be applied to the most serious hazards first, then to the next-most-serious, and so on.

B. Most control measures fall into one or more of three categories. Paragraphs 1-3 below list the three types and also outline the preferred sequence for applying the controls, as engineering controls are the most effective way to control a hazard, followed by administrative controls and finally by personal protective equipment. Many times, the most effective controls are a blending of all three types. They are:

1. engineering controls;
2. administrative controls; and
3. personal protective equipment (PPE).

C. Engineering Controls. Usually engineering controls are considered the most effective because, if they are successful, they eliminate the hazard, or remove it from the presence of people. When applying engineering controls, look for ways to:

1. design or redesign hazardous situations or equipment;
2. substitute safer materials in the place of dangerous ones; and
3. install guards or other protective devices.

D. Management/Administrative Controls. Management/administrative controls are next in line to be applied in the control of a hazard because they are the direct responsibility of the persons who are operating the facility. In an educational environment, that means the administration and faculty. These controls involve such things as:

1. implementation and enforcement of safe policies and procedures;
2. limitations on the exposure to hazards through work assignments, number of persons involved in an activity, etc.; and
3. similar approaches.

E. Personal Protective Equipment (PPE). The last approach to hazard control involves the use of PPE. This is because PPE does not eliminate the hazard but, rather, only establishes a barrier or shield between the hazard and the exposed person. If the exposed person does not have the correct type of PPE, or does not use it properly, then that person will be exposed to the full effect of the hazard.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:63 (January 2007).

Chapter 23. Hearing Conservation and Noise Protection Worksheet

Subchapter A. General Provisions

§2301. Worksheet Instructions

A. Use this worksheet as a guide to conduct a survey of the instructional facilities. Answer each of the listed questions by circling the answer that applies to the condition at the facility. "Y" indicates "Yes," "N" indicates "No," and "N/A" indicates "Not Applicable." If any of the questions are answered "N" for "No," it is the sign of a condition that may indicate a possible hazard. For every "N" marked, write a brief description of the deficient condition observed in the space provided at the end of the worksheet.

NOTE: The Occupational Safety and Health Administration (OSHA) and other regulatory agencies specify that persons exposed to noise levels of 85 dBA over an eight-hour period must wear hearing protection, and be provided with and trained in the use of hearing protection. In order to provide a margin of safety and simplify the evaluation process, any equipment or operation found to expose persons to a noise level of 85 dBA or above over any time period should be considered a hazard, and hearing protection should be required.

1. Additional guidance material may be found in Appendix H, Hearing Conservation and Noise Control in the Safety and Health Manual on the Louisiana Department of Education website (<http://www.doe.state.la.us/lde/index.html>).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:63 (January 2007).

Subchapter B. Hazard Identification

§2311. Facilities and Equipment

A. Evaluation

	Circle the Appropriate Answer
1. Have all operations or equipment believed to be excessively noisy (85 dBA or above) been measured to determine their noise levels?	Y N N/A
2. Are noise measurements repeated when a change in operations or equipment may increase noise exposure?	Y N N/A

B. Training

	Circle the Appropriate Answer
1. Does the school administer a continuing, effective hearing conservation program?	Y N N/A
2. Do all students or employees exposed to 85 dBA or above receive hearing conservation training at least annually?	Y N N/A
3. Are training materials and literature on hearing conservation available to employees or students?	Y N N/A

C. Noise Control and Hearing Protection

	Circle the Appropriate Answer
1. Have feasible engineering and/or administrative controls been used to reduce operation or equipment noise levels determined to be excessive (85 dBA or above)?	Y N N/A
2. Are hearing protectors evaluated to verify that they effectively reduce noise to levels below 85 dBA?	Y N N/A
3. Are hearing protectors available to all persons exposed to noise levels at or above 85 dBA?	Y N N/A

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:64 (January 2007).

Subchapter C. Hazard Evaluation and Prioritization

§2321. Relative Risk Factors

A. Introduction

1. This part of the worksheet enables the instructor to examine each of the potential hazards (the "N" answers) that were identified in Subchapter B of this Chapter 23, Hazard Identification, and to assign it a value corresponding to its relative risk. Relative risk is usually defined in terms of three factors:

- severity;
- frequency/probability; and
- exposure.

2. Each of the factors listed in Subparagraphs a-c is described in Subsections B-D.3 below, and the point values are provided for the corresponding degree of risk.

NOTE: The greater the risk, the higher the point value.

B. Severity. Consider the potential losses or destructive and disruptive consequences that are most likely to occur if any of the hazards that have been identified in Subchapter B of this Chapter 23, Hazard Identification, result in an actual incident. The following point values are suggested.

1. Four Points—Catastrophic:

- loss of life;
- permanent disability;
- loss of entire facility;
- permanent.

2. Three Points—Critical:

- severe injury or illness with lost time;
- major property damage;
- no permanent disability or fatality;
- interruption of activities for extended period of time.

3. Two Points—Marginal:

- minor injury or illness;
- minor property damage;
- interruption of activities for more than one day.

4. One Point—Negligible:

- probably no injury or illness;
- no loss other than interruption of activities for a short period of time.

C. Frequency/Probability (Likelihood of Occurrence)

1. Consider the probability that a loss would occur. Ask yourself the following key questions.

- How likely is it that things will go wrong as a result of the hazard that has been identified?
- How often is the activity which creates the hazard performed?
- How often is the hazard present?

2. Use the following point values.

- Three Points—high probability of occurrence.
- Two Points—moderate probability of occurrence.
- One Point—low probability of occurrence.

D. Exposure. Consider the number of persons (students and faculty) who could be potentially affected by a worst case scenario caused by each of the potential hazards that have been identified. The following point values are suggested.

- Three Points—many persons are affected frequently.
- Two Points—a few persons are affected frequently.
- One Point—a few persons are affected up to a few times per day.

E. Prioritization. Based on the analysis above, and using the hazard prioritization matrix below, prioritize the hazards identified in Subchapter B of this Chapter and evaluated in §2321.B-D.3.

1. Step One. List each of the hazardous conditions that were identified in Subchapter B of this Chapter 23 in the first column of the worksheet.

2. Step Two. Based on the criteria given above in §2321.B-D.3, assign a point value for each hazard in each of the three columns.

3. Step Three. Add up the point values, horizontally, for each of the hazards.

4. Step Four. Rearrange the hazards that were identified in descending order with the one having the highest total point value first, then the one with the next-highest point value; and so on.

Hazard Prioritization Matrix				
Hazard Identified	Severity	Probability	Exposure	Total Points

5. Step Five. A list has just been developed of the potentially hazardous conditions existing at the school facility based on their relative priority.

F. The items on the prioritized list with the highest point value will generally be those that are most serious, and should receive the greatest attention in terms of resources expended to eliminate it. As with all organizations, especially educational institutions, resources are not without limitations. There is a finite amount of money, time, and personnel available to solve these problems. By prioritizing the hazards and concentrating in order on those with the highest priority, concentration will be on the "worst first." This is the smart way to allocate limited resources. Even though instructors might not get all the way through the list, there will be the satisfaction and peace of mind that comes with dealing with the "really important" problems first.

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Subchapter D. Hazard Control Measures

§2331. Control Categories

A. This Subchapter D is to implement those control measures that will either eliminate or minimize hazards to the point where they will become acceptable. Also, these control measures will be applied to the most serious hazards first, then to the next-most-serious, and so on.

B. Most control measures fall into one or more of three categories. Paragraphs 1-3 below list the three types, and also outline the preferred sequence for applying the controls, as engineering controls are the most effective way to control a hazard, followed by administrative controls and finally by personal protective equipment. Many times, the most effective controls are a blending of all three types. They are:

1. engineering controls;

2. administrative controls; and
3. personal protective equipment (PPE).

C. Engineering Controls. Usually engineering controls are considered the most effective because, if they are successful, they eliminate the hazard, or remove it from the presence of people. When applying engineering controls, look for ways to:

1. design or redesign hazardous situations or equipment;
2. substitute safer materials in the place of dangerous ones; and
3. install guards or other protective devices.

D. Management/Administrative Controls. Management/administrative controls are next in line to be applied in the control of a hazard because they are the direct responsibility of the persons who are operating the facility. In an educational environment, that means the administration and faculty. These controls involve such things as:

1. implementation and enforcement of safe policies and procedures;
2. limitations on the exposure to hazards through work assignments, number of persons involved in an activity, etc.; and
3. similar approaches.

E. Personal Protective Equipment (PPE). The last approach to hazard control involves the use of PPE. This is because PPE does not eliminate the hazard but, rather, only establishes a barrier or shield between the hazard and the exposed person. If the exposed person does not have the correct type of PPE, or does not use it properly, then that person will be exposed to the full effect of the hazard.

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Chapter 25. Mechanical Hazards Worksheet

Subchapter A. General Provisions

§2501. Worksheet Instructions

A. Use this worksheet as a guide to conduct a survey of the instructional facility. Answer each of the listed questions by circling the answer that applies to the condition at the facility. "Y" indicates "Yes," "N" indicates "No," and "N/A" indicates "Not Applicable." If any of the questions are answered "N" for "No," it is the sign of a condition that may indicate a possible hazard. For every "N" marked, write a brief description of the deficient condition observed in the space provided at the end of the worksheet.

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Subchapter B. Hazard Identification

§2511. General Requirements

	Circle the Appropriate Answer
1. Are all machines guarded to protect the operator and other people in the machine area from hazards such as those created by point of operation, ingoing nip points, rotating parts, flying chips, and sparks?	Y N N/A

	Circle the Appropriate Answer
2. Is the point of operation guarded in conformity with appropriate standards, if operation of machinery exposes individuals to injury? <i>Note: In the absence of applicable specific standards, guarding shall be so designed and constructed as to prevent the operator from having any part of his/her body in the danger zone during the operating cycle. Examples of cited violations include:</i> i. paper cutters had no finger guards; ii. a radial arm saw's blade protruded beyond the edge of the cutting table during its operating cycle; iii. bench and pedestal drills had no bit guards; and iv. lathes had no shields.	Y N N/A
3. Are guards attached to the machine when possible, and if that is not possible, attached elsewhere?	Y N N/A
4. If hand tools are used for placing or removing material, are they designed to be easily handled without a need to place hands in a danger zone? <i>Note: Such tools are not a substitute for guarding. They can only be used as supplemental protection.</i>	Y N N/A
5. Are all revolving drums, barrels, and containers guarded by an enclosure that is interlocked so that containers cannot revolve unless the enclosure is in place?	Y N N/A
6. Are all fans less than 7 feet from the floor equipped with guards that have openings no larger than 1/2 inch? <i>Note: Examples of cited violations include:</i> i. exhaust fan blades and floor fans were not provided with protective guards; ii. a portable table fan had a blade guard whose openings were approximately 1 inch in width; and iii. a guard was broken creating a hole approximately 4" x 2".	Y N N/A
7. Is all machinery designed for a fixed location securely anchored to prevent "walking" or "moving"?	Y N N/A
8. Are all machines constructed, installed and maintained as to be free from excessive vibration or play?	Y N N/A
9. Are all machines and equipment requiring the presence of an operator not left unattended while in operation or still in motion?	Y N N/A
10. Are all machines provided with a power cutoff switch that can be reached from the operating position?	Y N N/A
11. Is all fixed motorized machinery equipped with a magnetic-type switch designed to prevent automatic restarting of machinery when power is restored after a power failure or electrical cutoff?	Y N N/A
12. Are all machine operating controls easily reachable from the standard operating position and away from any hazardous point of operation?	Y N N/A
13. Are all electrically powered machines provided with a positive means for rendering the motor starting controls inoperative while repairs or tool changes are being made?	Y N N/A

	Circle the Appropriate Answer
14. Is your shop or lab equipped with two or more push-type emergency cut-out switches, provided at appropriate locations for each (maximum) 1,000 square feet of shop floor areas, for de-energizing the electrical supply to non-portable machinery? <i>Note: The switch must have a clear unobstructed access of at least 36 inches. In addition, the reset of the switch must be key operated.</i>	Y N N/A
15. Are all power tools and machines which generate dust connected to a dust collection system?	Y N N/A
16. If required in your state, are dust collection systems permitted by the appropriate state agency?	Y N N/A

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§2513. Control of Hazardous Energy Sources (Lockout/Tagout)

A. General Energy Control

	Circle the Appropriate Answer
1. Does the program require that all hazardous energy sources be isolated, locked or tagged, and otherwise disabled before anyone performs any activity where the unexpected energization, startup, or release of stored energy could occur and cause injury?	Y N N/A
2. Have procedures been developed, documented, and implemented for the control of hazardous energy when working with such equipment?	Y N N/A
3. Do the procedures clearly outline the scope, purpose, responsibility, authorization, rules, and techniques to be applied to the control of hazardous energy, and measures to enforce compliance?	Y N N/A
4. Do procedures exist for shutting down, isolating, blocking, and securing (locks and tags) energy?	Y N N/A
5. Do procedures exist and is someone assigned responsibility for removing and transferring locks and tags?	Y N N/A

B. Protective Materials and Hardware

	Circle the Appropriate Answer
1. Are locks, tags, chains, adapter pins, or other hardware available for securing or blocking energy sources?	Y N N/A
2. Are these devices standardized in either color, shape, size, or format?	Y N N/A
3. Do these devices have a provision for identifying the person applying the device?	Y N N/A

	Circle the Appropriate Answer
4. Do tagout devices or danger tags warn against hazardous conditions if the equipment is re-energized? <i>Note: Acceptable wording includes Do Not Open, Do Not Start, Do Not Close and Do Not Energize</i>	Y N N/A

C. Inspection

	Circle the Appropriate Answer
1. Are inspections conducted at least annually by an authorized person (other than the ones using the energy control procedures) to ensure control procedures are being implemented?	Y N N/A
2. Is each inspection certified by identifying: a. the machine or equipment on which the energy control procedure was being used; b. the date of the inspection; and c. the person performing the inspection?	Y N N/A

D. Training and Communication

	Circle the Appropriate Answer
1. Is training provided and documented to ensure that: a. the purpose and function of the energy control procedures are understood; and b. the knowledge and skills required for the safe application and removal of energy controls are acquired?	Y N N/A
2. Is this training repeated periodically when changes or deviations occur in the energy control procedure?	Y N N/A

E. Energy-Isolating Devices

	Circle the Appropriate Answer
1. Are all energy-isolated devices operated only by authorized persons or under the direct supervision of an authorized person?	Y N N/A

F. Notification of Employees

	Circle the Appropriate Answer
1. Are all employees notified of the application and removal of lockout and tagout controls whenever such controls directly affect their work activities?	Y N N/A

G. Application of Control

	Circle the Appropriate Answer
1. Does the application of energy control follow the sequence listed below? Step 1. Machine or equipment shutdown by authorized personnel. Step 2. Machine or Equipment Isolation. All energy-isolated devices that are needed shall be located and operated in a manner that isolates the machine or equipment from the energy source(s). Step 3. Lockout and Tagout Application i. Lockout devices shall be affixed in a manner that will hold the energy-isolating device in a safe or off position. ii. Tagout devices shall be affixed in a manner that clearly indicates that the operation or movement of energy isolating devices from the safe or off position is prohibited. iii. If a tag cannot be affixed directly to the energy isolating device, the tag shall be located as close as safely permissible to the device, in a position that will be immediately obvious to anyone operating the device. Step 4. Stored Energy. Following the application of lockout and tagout devices, all hazardous, stored, or residual energy shall be relieved, disconnected, restrained, or otherwise rendered safe. Step 5. Verification of Isolation. Before starting work on the isolated equipment or process, an authorized person must verify that isolation and de-energization of the machine or equipment has been accomplished.	Y N N/A
2. Has the work area been inspected before the removal of lockout and tagout devices?	Y N N/A
3. Has the lockout and tagout device been removed by the person who put it on? <i>Note: This rule has some limited exceptions.</i>	Y N N/A
4. Are outside servicing personnel informed of the lockout and tagout procedures before equipment is serviced?	Y N N/A

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§2515. Mechanical Power-Transmission Devices

A. Care of Equipment

	Circle the Appropriate Answer
1. Is all power-transmission equipment inspected every 60 days or less and kept in good working condition at all times?	Y N N/A

	Circle the Appropriate Answer
2. Are hangers inspected to make certain that all supporting bolts and screws are tight and that supports of hanger boxes are adjusted properly?	Y N N/A
3. Is machinery oiled wherever possible when not in motion?	Y N N/A
4. Do regular oilers wear tight fitting clothing?	Y N N/A

B. Prime-Mover Guards

	Circle the Appropriate Answer
1. When exposed to contact, are flywheels guarded by an enclosure, guard rail, or toeboard?	Y N N/A
2. Are crank and connecting rods guarded when exposed to contact?	Y N N/A
3. Are tail rods or extension piston rods guarded?	Y N N/A

C. Shafting

	Circle the Appropriate Answer
1. Is each continuous line of shafting secured against excessive end movement?	Y N N/A
2. Are inclined and vertical shafts (particularly inclined idler shafts) securely held in position against end-wise thrust?	Y N N/A
3. For horizontal shafting 7 feet or less above the floor or working platform, are all exposed parts protected by: <ul style="list-style-type: none"> a. a stationary casing completely enclosing the shafting; or b. a trough enclosing the side and top, or sides and bottom of the shafting (as the location requires)? 	Y N N/A
4. Is shafting under bench machinery enclosed by: <ul style="list-style-type: none"> a. stationary casing; or b. a trough at sides and top, or sides and bottom (as the location requires)? <p><i>Note: The sides of the trough shall come within at least 6 inches of the underside of the table, or within 6 inches of the floor if shafting is near the floor. In every case, the sides of the trough shall extend at least 2 inches beyond the shafting or protuberance.</i></p>	Y N N/A
5. Is vertical or inclined shafting that is 7 feet or less from the floor or working platform (except maintenance runways) enclosed with a stationary casing?	Y N N/A
6. Do projecting shaft ends have a smooth edge and end?	Y N N/A
7. Are shaft ends that project more than one-half of the diameter of the shaft guarded by non-rotating caps or safety sleeves?	Y N N/A
8. Are unused keyways filled up or covered?	Y N N/A
9. Is shafting kept in alignment and free from rust and excess oil or grease?	Y N N/A

D. Pulleys

	Circle the Appropriate Answer
1. Are pulleys 7 feet or less from the floor guarded?	Y N N/A
2. Are pulleys with cracks or pieces broken out of the rims taken out of service?	Y N N/A
3. Are pulleys kept in proper alignment to prevent belts from running off?	Y N N/A

E. Belt, Rope, and Chain Drives

	Circle the Appropriate Answer
1. Are horizontal belts 7 feet or less from the floor level guarded?	Y N N/A
2. Are belts, lacings, and fasteners inspected and maintained in good repair?	Y N N/A

F. Gears, Sprockets, and Chains

	Circle the Appropriate Answer
1. Are all gears fully guarded?	Y N N/A
2. Are all sprocket wheels and chains that are less than 7 feet above the floor or platform fully guarded?	Y N N/A
3. Are openings with hinged or sliding self-closing covers provided when frequent oiling must be done on gears, sprockets, and chains?	Y N N/A

G. Keys, Set-Screws, and Other Projections

	Circle the Appropriate Answer
1. Are all projecting keys, set-screws, and other projections in revolving parts guarded by metal covers or made flush?	Y N N/A

H. Collars and Couplings

	Circle the Appropriate Answer
1. Are shaft couplings constructed so they do not present hazards from bolts, nuts, set-screws, or revolving surfaces? <i>Note: Bolts, nuts, and set-screws are permitted if covered with safety sleeves.</i>	Y N N/A

I. Bearings and Facilities for Oiling

	Circle the Appropriate Answer
1. Are all drip cups and pans securely fastened?	Y N N/A
2. Are bearings kept in alignment and properly adjusted?	Y N N/A

J. Guards

	Circle the Appropriate Answer
1. Are all metal guards free from burrs and sharp edges?	Y N N/A
2. Are all metal guards securely fastened to the floor or to frame of the machine?	Y N N/A
3. Are all guards rigidly braced every 3 feet or fractional part of their height to a fixed part of machinery or building structure?	Y N N/A

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§2517. Abrasive Wheel Machinery

A. General Requirements

	Circle the Appropriate Answer
1. Do grinding wheels fit freely on the spindle?	Y N N/A
2. Is forcing the grinding wheel on the spindle prohibited?	Y N N/A
3. Are all wheels closely inspected and sounded by the user (ring test) to make sure they have not been damaged before being mounted? <i>Note: Before mounting the wheel, make sure the spindle speed of the machine does not exceed the maximum operating speed marked on the wheel.</i>	Y N N/A
4. Is the spindle nut-tightened only enough to hold the wheel in place?	Y N N/A
5. Are all grinding wheel operators required to use eye protection?	Y N N/A
6. Are all contact surfaces of the wheel, blotters, and flanges flat and free of foreign material?	Y N N/A
7. When a bushing is used in the wheel hole, is it positioned so it does not exceed the width of the wheel nor make contact with the flange?	Y N N/A

B. Floor and Bench-Grinding Machines

	Circle the Appropriate Answer
1. Are all floor- and bench-mounted abrasive wheels equipped with safety guards?	Y N N/A
2. Does the safety guard cover the spindle end, nut, and flange projections?	Y N N/A
3. Is the maximum angular exposure of the grinding wheel and side 90° or less? Exception. When work requires contact with the wheel below the horizontal plane of the spindle, the angular exposure shall not exceed 125°. In either case, the exposure shall begin at not more than 65° above the horizontal plane of the spindle.	Y N N/A
4. Are work rests provided which are rigidly supported and readily adjustable?	Y N N/A
5. Are work rests kept adjusted closely to the wheel with a maximum opening of 1/8 inch to prevent the work from being jammed between the wheel and the rest?	Y N N/A

C. Portable and Other Abrasive Wheels

	Circle the Appropriate Answer
1. Do all machines with abrasive wheels greater than 2 inches in diameter have safety guards? <i>Note: Some abrasive wheels may be equipped with flanges.</i>	Y N N/A
2. Is the maximum exposure angle on all grinding wheels 180° or less?	Y N N/A
3. When in use, is the guard on right angle head or vertical portable grinders located between the operator and the wheel?	Y N N/A
4. Is the guard on right angle head or vertical portable grinders adjusted so that pieces of a broken wheel will be deflected away from the operator?	Y N N/A
5. Is the top half of the wheel on other grinders always enclosed?	Y N N/A

D. General Requirements for Guards

	Circle the Appropriate Answer
1. Are the guard and its fastenings strong enough to retain fragments of the wheel in case of breakage?	Y N N/A
2. Are guards mounted to maintain proper alignment with the wheel?	Y N N/A
3. Are tongue guards at the top of the wheel bench, floor stand, and cylindrical grinders adjusted to the decreasing diameter of the wheel so that the gap is never more than one-fourth of an inch?	Y N N/A

E. Ping Test

1. Wheels should be tapped gently with a light nonmetallic implement, such as the handle of a screwdriver for light wheels, or a wooden mallet for heavier wheels. Tap wheels about 45° each side of the vertical centerline and about 1 or 2 inches from the edge of the wheel. Then rotate the wheel 45° and repeat the test. A sound and undamaged wheel will give a clear metallic tone. If cracked, there will be a dead sound and not a clear "ring."

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§2519. Woodworking Machinery

A. General Machine Construction

	Circle the Appropriate Answer
1. Is each machine constructed and installed so it is free from sensible vibration when the largest tool is mounted and run at full speed?	Y N N/A
2. Are arbors and mandrels constructed to have firm and secure bearing and be free from play?	Y N N/A
3. Are saw frames on tables constructed with lugs cast on the frame or with equivalent means to limit the size of the saw blade that can be mounted? <i>Note: This is done to avoid overspeed caused by mounting a saw larger than intended.</i>	Y N N/A

	Circle the Appropriate Answer
4. Are circular saw fences constructed so they can be firmly secured to the table without changing their alignment with the saw?	Y N N/A
5. Are circular saw gauges constructed so they slide in grooves or tracts that are securely machined, to ensure exact alignment with the saw for all positions on the guide?	Y N N/A
6. Are hinged table saws constructed so that the table can be firmly secured in any position and in true alignment with the saw?	Y N N/A
7. Are all belts, pulleys, gears, shafts, and moving parts guarded?	Y N N/A
8. Is each woodworking machine provided with a disconnect switch that can be locked in the off position? <i>Note: The construction standard 1926-304 permits a disconnect switch that can be tagged in the off position.</i>	Y N N/A
9. Are the frames of all exposed non-current-carrying metal parts grounded?	Y N N/A
10. If the possibility exists of contacting part of a circular saw either beneath or behind the table, is that part covered with either an exhaust hood or guard?	Y N N/A
11. Are revolving double arbor saws fully guarded?	Y N N/A
12. Is the placement and mounting of saws, cutter heads, or tool collars on machine arbors accomplished when the tool has been accurately machined to size and shape to fit the arbor?	Y N N/A
13. Are combs (featherboards) or suitable higs provided at the shop or lab for use when a standard guard cannot be used, as in dadoing, grooving, joining, moulding, and rabbetting?	Y N N/A
14. Is the operating speed etched or otherwise permanently marked on all circular saws over 20 inches in diameter and operating at over 10,000 peripheral feet per minute?	Y N N/A
15. Do woodworking tools and machinery meet the American National Standards Institute (ANSI) codes for safety? <i>Note: A label on the equipment or manufacturer's literature might indicate that it meets ANSI's standards. If in doubt, the manufacturer of the equipment should be contacted.</i>	Y N N/A

B. Machine Controls and Equipment

	Circle the Appropriate Answer
1. Are mechanical or electrical power controls provided on each machine to make it possible for the operator to cut off the power without leaving his or her operating position?	Y N N/A
2. On machines driven by belts and shaftings, is a locking type belt shifter or equivalent positive device used?	Y N N/A
3. Is each operating treadle protected against unexpected tripping?	Y N N/A
4. Are automatic feeding devices installed on machines whenever the nature of the work permits?	Y N N/A
5. Do feeder attachments have the feed rolls or other moving parts covered or guarded to protect the operator from hazardous points?	Y N N/A

C. Inspection and Maintenance of Woodworking Machinery

	Circle the Appropriate Answer
1. Are dull, badly set, improperly filed, or improperly tensioned saws immediately removed from service before they cause the material to stick, jam, or kickback when it is fed to the saw at normal speed?	Y N N/A
2. Are all knives and cutting heads of woodworking machines kept sharp, properly adjusted, and firmly secured?	Y N N/A
3. Are all bearings well lubricated and kept free from lost motion?	Y N N/A
4. Are arbors of circular saws free from play?	Y N N/A
5. Is sharpening or tensioning of saw blades or cutters done only by people with demonstrated skill in this kind of work?	Y N N/A
6. Is cleanliness maintained around woodworking machinery so guards function properly and fire hazards are prevented in switch enclosures, bearings, and motors?	Y N N/A
7. Are all cracked saws immediately removed from service? <i>Note: Dispose of cracked saws in a manner that will prevent injury to anyone handling the discarded saws.</i>	Y N N/A
8. Is inserting wedges between the saw disk and the collar to form what is commonly known as a wobble saw prohibited?	Y N N/A
9. Are push sticks or blocks provided at workplaces in several sizes and types suitable for the work to be done?	Y N N/A

D. Hand-Fed Ripsaws

	Circle the Appropriate Answer
1. Is each circular hand-fed ripsaw guarded by a hood that completely encloses the portions of the saw that are above the table and above the material being cut?	Y N N/A
2. Is the hood and mounting arranged so that the hood will automatically adjust itself to the thickness of the material and remain in contact with the material being cut? <i>Note: The hood should not offer considerable resistance to insertion of the material.</i>	Y N N/A
3. Is each hand-fed circular ripsaw furnished with a spreader to prevent material from squeezing the saw or being thrown back on the operator?	Y N N/A
4. Is each hand-fed circular ripsaw provided with non-kickback fingers or dogs located to oppose the thrust or tendency of the saw to pick up the material or throw it back toward the operator?	Y N N/A

E. Hand-Fed Crosscut Table Saws

	Circle the Appropriate Answer
1. Is each hand-fed crosscut table saw guarded by a hood that completely encloses portions of the saw that are above the table and above the material being cut?	Y N N/A

	Circle the Appropriate Answer
2. Is the hood and mounting arranged so that the hood will automatically adjust itself to the thickness of and remain in contact with the material being cut? <i>Note: The hood should not offer considerable resistance to insertion of the material.</i>	Y N N/A

F. Circular Resaws

	Circle the Appropriate Answer
1. Is each circular resaw guarded by a hood or shield of metal above the saw?	Y N N/A
2. Does each circular resaw have a spreader fastened securely behind the saw?	Y N N/A

G. Self-Feed Circular Saws

	Circle the Appropriate Answer
1. Are feed rolls and saws protected by a hood or guard to prevent the hands of the operator from coming into contact with the in-running rolls at any point? <i>Note: The guard must be constructed of heavy material (preferable metal), and the bottom of the guard must come down to within 3/8 inch of the plane formed by the bottom or working surfaces of the feed rolls. This distance may be increased to 3/4 inch, provided the lead edge of the hood is extended to at least 5-1/2 inches in front of the nip point between the front roll and the work.</i>	Y N N/A
2. Is each self-feed circular rip saw provided with sectional non-kickback fingers for the full width of the feed rolls?	Y N N/A

H. Swing and Sliding Cutoff Saws

	Circle the Appropriate Answer
1. Are swing and sliding cutoff saws provided with a hood that completely encloses the upper half of the saw, the arbor end, and the point of operation of all positions of the saw? <i>Note: The hood must be constructed to protect the operator from flying splinters and broken saw teeth. It must automatically cover the lower portion of the blade so that when the saw is returned to the back of the table, the hood will rise on top of the fence, and when the saw is moved forward, the hood will drop on top of and remain in contact with the table or material being cut.</i>	Y N N/A
2. Are swing and sliding cutoff saws equipped with an effective device to return the saw automatically to the back of the table when released at any point of its travel?	Y N N/A

	Circle the Appropriate Answer
3. Are swing and sliding cutoff saws equipped with limit chains or other equally effective devices to prevent the saw from swinging beyond the front or back edges of the table, or beyond a forward position where the gullets of the lowest saw teeth rise above the table top?	Y N N/A
4. Are inverted swing cutoff saws provided with a hood that covers the part of the saw that protrudes above the table or above the material being cut? <i>Note: The hood must automatically adjust itself to the thickness of the material and remain in contact with the material being cut.</i>	Y N N/A

I. Radial Saws

	Circle the Appropriate Answer
1. Does the upper hood completely enclose the upper portion of the blade down to the point that will include the end of the saw arbor?	Y N N/A
2. Are the sides of the lower exposed portion of the blade guarded to the full diameter of the blade by a device that automatically adjusts itself to the thickness of the stock? Does this device remain in contact with the stock being cut to give maximum protection for the operation being performed?	Y N N/A
3. Are radial saws used for ripping provided with non-kickback fingers or dogs located on both sides of the saw to oppose the thrust or tendency of the saw to throw material back toward the operator?	Y N N/A
4. Is an adjustable stop provided that prevents the forward travel of the blade beyond the position necessary to complete the cut in repetitive operations?	Y N N/A
5. Is the installation designed so that the front end of the unit is slightly higher than the rear? (This design causes the cutting head to return gently to the starting position when released by the operator.) <i>Note: The cutting head should be fitted with an automatic return device.</i>	Y N N/A
6. Is the direction of saw rotation conspicuously marked on the hood?	Y N N/A
7. Is a permanent label (at least 1/2 inch by 3/4 inch) affixed to the rear of the guard at approximately the level of the arbor that reads as follows? Danger: Do not rip or plow from this end.	Y N N/A

J. Bandsaws and Band Resaws

	Circle the Appropriate Answer
1. Are all portions of the band saws and band resaws enclosed or guarded, except for the working portion of the blade between the bottom of the guide rolls and the table?	Y N N/A

	Circle the Appropriate Answer
2. Does a self-adjusting guard raise and lower the guide?	Y N N/A
3. Is each bandsaw machine provided with a tension control device to indicate the proper tension for the standard saws used on the machine?	Y N N/A
4. Are feed rolls of band resaws protected with a suitable guard to prevent the hands of the operator from coming in contact with the in-going rolls at any point?	Y N N/A

K. Jointers

	Circle the Appropriate Answer
1. Is each hand-fed planer or jointer with a horizontal head equipped with a cylindrical cutting head? <i>Note: The knife projection of the cylindrical cutting head cannot exceed 1/8 inch beyond the cylindrical body of the head.</i>	Y N N/A
2. Is the opening in the table kept as small as possible? <i>Note: The clearance between the edge of the rear table and the cutting head shall be 1/8 inch or less. The table throat opening shall not be more than 1 1/2 inches when tables are set or aligned with each other for a zero cut.</i>	Y N N/A
3. Does each hand-fed jointer with a horizontal cutting head have an automatic guard that covers all sections of the head on the working side of the fence or gauge?	Y N N/A
4. Does each wood jointer with a vertical head have either an exhaust hood or other guard arranged so it completely encloses the revolving head, except for a slot wide enough for the material to be jointed?	Y N N/A
5. Is the knife blade of jointers installed and adjusted so that it does not protrude more than 1/8 inch beyond the cylindrical body of the head?	Y N N/A

L. Tenoning Machines

	Circle the Appropriate Answer
1. Are feed chains and sprockets of double-end tenoning machines completely enclosed, except for the portion of chain used for conveying the stock?	Y N N/A
2. Are sprockets and chains at the rear ends of frames guarded at the sides by plates projecting beyond the edges of sprockets and lugs?	Y N N/A
3. If used on tenoning machines, are cutting heads and saws covered by metal guards? <i>Note: The guards must cover at least the unused part of the periphery of the cutting head. If the guard is made of sheet metal, the material used must be at least 1/16 inch thick, and if it is cast iron, it must be at least 3/16 inch thick.</i>	Y N N/A

	Circle the Appropriate Answer
4. If an exhaust system is used on a tenoning machine, is the guard part of the exhaust hood?	Y N N/A

M. Boring and Mortising Machines

	Circle the Appropriate Answer
1. Are safety-bit chucks with projecting-set screws prohibited?	Y N N/A
2. Are boring bits provided with a guard that encloses all portions of the bit and chuck above the material being worked?	Y N N/A
3. Is the top of the cutting chain and driving mechanism enclosed?	Y N N/A
4. When a counterweight is used, is one of the following (or equivalent means) used to prevent its dropping? a. It is bolted to the bar by a bolt passing through both bar and counterweight. b. A bolt is put through the extreme end of the bar. c. Where the counterweight does not encircle the bar, a safety chain is attached to it. d. Other types of counterweights are suspended by chain or wire rope and shall travel in a pipe (or other suitable enclosure) if they might fall and cause injury.	Y N N/A
5. Are universal joints on spindles of boring machines completely enclosed to prevent contact by the operator?	Y N N/A
6. Is each operating treadle covered by an inverted U-shaped metal guard, fastened to the floor, and of adequate size to prevent tripping?	Y N N/A

N. Wood Shapers and Similar Equipment

	Circle the Appropriate Answer
1. Is the cutting head of each wood shaper or hand-fed panel raiser (or other similar machine that is not automatically fed) enclosed with a cage or adjustable guard designed to keep the operator's hand away from the cutting edge?	Y N N/A

O. Planing, Molding, Sticking, and Matching Machines

	Circle the Appropriate Answer
1. Is each planing, molding, sticking, and matching machine equipped with a metal guard covering the cutting heads?	Y N N/A
2. When an exhaust system is used, does the guard form part of the exhaust hood? <i>Note: If the guard is constructed of sheet metal, the material used shall be at least 1/16 inch thick, and if it is constructed of cast iron, it must be at least 3/16 inch thick.</i>	Y N N/A

	Circle the Appropriate Answer
3. Are feed rolls guarded by a hood or suitable guard to prevent the hands of the operator from contacting the in-running rolls?	Y N N/A
4. Do the surfaces and planers (provided with the sectional infeed rolls) give sufficient feeding contact pressure on the stock thickness?	Y N N/A

P. Profile and Swing-Head Lathes and Wood Heel Turning Machines

	Circle the Appropriate Answer
1. Are the cutting heads of each profile and swing head lathe covered by a metal guard?	Y N N/A
2. Are cutting heads on wood-turning lathes covered as much as possible by hoods or shields?	Y N N/A
3. Do the following have hoods enclosing the cutter blades completely? (except at the contact points where the stock is being cut): a. shoe last and spoke lathes; b. doweling machines; c. wood heel-turning machines; and d. other automatic wood-turning lathes of the rotating knife type.	Y N N/A
4. Are lathes used for turning long pieces of wood stock held only between the two centers equipped with long, curved guards extending over the tops of the lathe? <i>Note: This is to prevent the work pieces from being thrown out of the machine if they become loose.</i>	Y N N/A
5. When an exhaust system is used, does the guard form part or all of the exhaust hood? <i>Note: If the guard is constructed of sheet metal, the material used must be at least 1/16 inch thick, and if it is constructed of cast iron, it must be at least 3/16 inch thick.</i>	Y N N/A

Q. Sanding Machines

	Circle the Appropriate Answer
1. Are the feed rolls of self-feeding sanding machines protected with a semi-cylindrical guard to prevent contact with the in-running rolls?	Y N N/A
2. Does the bottom guard come to within 3/8 inch of a plane formed by the bottom or contact face of the feed roll where it touches the stock?	Y N N/A
3. Is each drum-sanding machine equipped with an exhaust hood or other guard if no exhaust hood is required?	Y N N/A
4. Does each disk-sanding machine enclose the revolving disk (except for the portion of the disk above the table if a table is used)?	Y N N/A
5. Is each belt-sanding machine provided with guards at each nip point where the sanding belt runs onto a pulley?	Y N N/A

R. Veneer, Cutting and Wringers

	Circle the Appropriate Answer
1. Are veneer-slicer knives guarded at the front and ready to prevent contact with the knife edge?	Y N N/A
2. Do veneer clippers have automatic feeds, or are they provided with a guard that makes it impossible to place a finger or fingers under the knife while feeding or removing the stock?	Y N N/A
3. Are sockets on chain or slat-belt conveyors enclosed?	Y N N/A
4. Are hand and foot power guillotine veneer cutters provided with rods or plates or other satisfactory means, arranged on the feeding side so that the hands cannot reach the cutting edge of the knife while feeding or holding the stock in place?	Y N N/A
5. Is the operator required to make sure that the machine is clear and that other people are not in a hazardous position before starting or restarting the machine? (For example, when veneer slivers or rotary veneer-cutting machines have been shut down to insert logs or to make adjustments.)	Y N N/A

S. Miscellaneous Woodworking Machinery

	Circle the Appropriate Answer
1. Are the feed rolls of roll-type glue spreaders guarded by a semi-cylindrical guard? <i>Note: The bottom of the guard shall come to within 3/8 inch of a plane formed by the bottom or contact face of the feed roll where it touches the stock.</i>	Y N N/A
2. Is each point of operation for combination or universal woodworking machines guarded as required for such a tool in a separate machine?	Y N N/A

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Subchapter C. Hazard Evaluation and Prioritization §2529. Relative Risk Factors

A. Introduction

1. This part of the worksheet enables the instructor to examine each of the potential hazards (the "N" answers) that were identified in Subchapter B of this Chapter 25, Hazard Identification, and to assign it a value corresponding to its relative risk. Relative risk is usually defined in terms of three factors:

- a. severity
- b. frequency/probability; and
- c. exposure.

2. Each of the factors listed in Subparagraphs a-c is described in Subsections B-D.3 below, and the point values are provided for the corresponding degree of risk.

NOTE: The greater the risk, the higher the point value.

B. Severity. Consider the potential losses or destructive and disruptive consequences that are most likely to occur if any of the hazards that have been identified in Subchapter B of this Chapter 25, Hazard Identification, result in an actual incident. The following point values are suggested.

1. Four Points—Catastrophic:
 - a. loss of life;
 - b. permanent disability;
 - c. loss of entire facility;
 - d. permanent.
2. Three Points—Critical:
 - a. severe injury or illness with lost time;
 - b. major property damage;
 - c. no permanent disability or fatality;
 - d. interruption of activities for extended period of time.
3. Two Points—Marginal:
 - a. minor injury or illness;
 - b. minor property damage;
 - c. interruption of activities for more than one day.
4. One Point—Negligible:
 - a. probably no injury or illness;
 - b. no loss other than interruption of activities for a short period of time.

C. Frequency/Probability (Likelihood of Occurrence)

1. Consider the probability that a loss would occur. Ask yourself the following key questions.
 - a. How likely is it that things will go wrong as a result of the hazard that has been identified?
 - b. How often is the activity which creates the hazard performed?
 - c. How often is the hazard present?
2. Use the following point values.
 - a. Three Points—high probability of occurrence.
 - b. Two Points—moderate probability of occurrence.
 - c. One Point—low probability of occurrence.

D. Exposure. Consider the number of persons (students and faculty) who could be potentially affected by a worst case scenario caused by each of the potential hazards that have been identified. The following point values are suggested.

1. Three Points—many persons are affected frequently.
2. Two Points—a few persons are affected frequently.
3. One Point—a few persons are affected up to a few times per day.

E. Prioritization. Based on the analysis above, and using the hazard prioritization matrix below, prioritize the hazards identified in Subchapter B of this Chapter and evaluated in §2529.B-D.3.

1. Step One. List each of the hazardous conditions that were identified in Subchapter B of this Chapter 25 in the first column of the worksheet.
2. Step Two. Based on the criteria given above in §2529.B-D.3, assign a point value for each hazard in each of the three columns.
3. Step Three. Add up the point values, horizontally, for each of the hazards.
4. Step Four. Rearrange the hazards that were identified in descending order with the one having the highest total point value first, then the one with the next-highest point value; and so on.

Hazard Prioritization Matrix				
Hazard Identified	Severity	Probability	Exposure	Total Points

5. Step Five. A list has just been developed of the potentially hazardous conditions existing at the school facility based on their relative priority.

F. The items on the prioritized list with the highest point value will generally be those that are most serious, and should receive the greatest attention in terms of resources expended to eliminate it. As with all organizations, especially educational institutions, resources are not without limitations. There is a finite amount of money, time, and personnel available to solve these problems. By prioritizing the hazards and concentrating in order on those with the highest priority, concentration will be on the "worst first." This is the smart way to allocate limited resources. Even though instructors might not get all the way through the list, there will be the satisfaction and peace of mind that comes with dealing with the "really important" problems first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:73 (January 2007).

Subchapter D. Hazard Control Measures
§2537. Control Categories

A. This Subchapter D is to implement those control measures that will either eliminate or minimize hazards to the point where they will become acceptable. Also, these control measures will be applied to the most serious hazards first, then to the next-most-serious, and so on.

B. Most control measures fall into one or more of three categories. Paragraphs 1-3 below list the three types, and also outline the preferred sequence for applying the controls, as engineering controls are the most effective way to control a hazard, followed by administrative controls and finally by personal protective equipment. Many times, the most effective controls are a blending of all three types. They are:

1. engineering controls;
2. administrative controls; and
3. personal protective equipment (PPE).

C. Engineering Controls. Usually engineering controls are considered the most effective because, if they are successful, they eliminate the hazard, or remove it from the presence of people. When applying engineering controls, look for ways to:

1. design or redesign hazardous situations or equipment;
2. substitute safer materials in the place of dangerous ones; and
3. install guards or other protective devices.

D. Management/Administrative Controls. Management/administrative controls are next in line to be applied in the control of a hazard because they are the direct responsibility of the persons who are operating the facility. In an

educational environment, that means the administration and faculty. These controls involve such things as:

1. implementation and enforcement of safe policies and procedures;
2. limitations on the exposure to hazards through work assignments, number of persons involved in an activity, etc.; and
3. similar approaches.

E. Personal Protective Equipment (PPE). The last approach to hazard control involves the use of PPE. This is because PPE does not eliminate the hazard but, rather, only establishes a barrier or shield between the hazard and the exposed person. If the exposed person does not have the correct type of PPE, or does not use it properly, then that person will be exposed to the full effect of the hazard.

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Chapter 27. Walking, Working, Surfaces/Stairs/Railings Worksheet

Subchapter A. General Provisions

§2701. Worksheet Instructions

A. Use this worksheet as a guide to conduct a survey of the instructional facilities. Answer each of the listed questions by circling the answer that applies to the condition at the facility. "Y" indicates "Yes," "N" indicates "No," and "N/A" indicates "Not Applicable." If any of the questions are answered "N" for "No," it is the sign of a condition that may indicate a possible hazard. For every "N" marked, write a brief description of the deficient condition observed in the space provided at the end of the worksheet.

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Subchapter B. Hazard Identification

§2711. Facilities

A. Stairs

	Circle the Appropriate Answer
1. Are fixed stairs (rather than ladders or other means of access) provided where access to elevation is necessary on a daily or regular basis?	Y N N/A
2. Do fixed stairs have a minimum width of 22 inches?	Y N N/A
3. Are fixed stairs installed at angles to the horizontal between 30° and 50°?	Y N N/A
4. Are all treads reasonably slip-resistant with the front protruding edge of the tread of a non-slip finish?	Y N N/A
5. Do fixed stairs have a uniform rise height and tread width throughout the flight of stairs?	Y N N/A
6. Are stairway landing platforms no less than the width of the stairway and a minimum of 30 inches long measured in the direction of travel?	Y N N/A
7. Are standard railings provided on all open sides of exposed stairways and stair platforms?	Y N N/A
8. Is a vertical clearance above the stair tread to an overhead obstruction that is at least 7 feet measured from the edge of the tread?	Y N N/A

B. Classrooms, Lavatories, etc.

	Circle the Appropriate Answer
1. Are all changes in classroom use and alterations, repairs, construction, or installation of new equipment reviewed with the appropriate state and local agencies that have jurisdiction over school modifications?	Y N N/A
2. Is an electric solenoid key-operated gas shut-off switch installed on each gas supply line to your shop, lab or instructional area?	Y N N/A
3. Are classrooms kept clean and free from debris to the greatest extent practical given the types of activities being performed?	Y N N/A
4. Are waste materials that are prone to rotting placed in leak-proof receptacles with tight fitting covers and removed daily for disposal?	Y N N/A
5. Are classrooms maintained, as far as reasonably practicable, to prevent the entrance or harborage of rodents, insects, and other vermin?	Y N N/A
6. Is water available that is suitable for drinking, personal hygiene, food preparation or cleaning?	Y N N/A
7. Are all non-drinking water outlets clearly marked as such?	Y N N/A
8. Are lavatories equipped with hot and cold running water, hand soap, and towels or driers?	Y N N/A
9. Where showers are required, are soap, hot and cold running water through a common discharge line, and individual towels provided?	Y N N/A
10. Is the consumption of food and beverages prohibited in or near toilet rooms or areas containing toxic materials?	Y N N/A
11. Is storage of food or beverages prohibited in toilet rooms or in an area exposed to a toxic material?	Y N N/A
12. Where employees are required to wear protective clothing, are change rooms provided with storage facilities for street clothes and separate storage facilities for the protective clothing?	Y N N/A
13. Is material stored so as not to create a hazard? <i>Note: Bags, containers, bundles, etc., stored in tiers must be stacked, blocked, interlocked, and limited in height so that they are stable and secured against sliding and collapse.</i>	Y N N/A
14. Are storage areas kept free from hazards that may cause tripping, fire, explosion, or pest harborage?	Y N N/A
15. Is sufficient safe clearance available through aisles, loading docks, turns, or doorways when mechanical handling equipment is used?	Y N N/A
16. Are head clearance warning signs provided where needed?	Y N N/A
17. Are all passageways, work areas, storerooms, and washing facilities kept orderly and sanitary? <i>Note: Examples of violations include floor areas strewn with lumber, tires, books, and boxes.</i>	Y N N/A
18. Are all floors kept clean and as far as possible dry?	Y N N/A
19. If floors are likely to get wet (such as in food preparation), are platforms, mats, or other dry standing places provided where practicable?	Y N N/A

	Circle the Appropriate Answer
20. Are floors kept free of protruding nails, splinters, holes, or loose boards?	Y N N/A
21. Are aisles and passageways kept clear and in good repair, with no obstructions that could create a hazard?	Y N N/A
22. Are covers and/or guardrails provided to protect people from falling into pits, tanks, vats, ditches, etc.?	Y N N/A
23. Are areas used for storage of materials marked with conspicuous signs that indicate the load-bearing capacity of the floor?	Y N N/A
24. Is the weight of stored materials assessed to ensure that it is below the load-bearing capacity of the floor?	Y N N/A

C. Guarding Floors, Stairs and Other Openings

	Circle the Appropriate Answer
1. Is every skylight floor opening and hole guarded by a standard skylight screen or a fixed standard railing on all exposed sides?	Y N N/A
2. Are all floor openings to stairways, ladderways, hatchways, chutes, or manholes guarded by a standard railing and toeboard (on all sides except the entrance) or other protective cover?	Y N N/A
3. Is every temporary floor opening guarded by a standard railing or constantly attended by someone?	Y N N/A
4. Is every floor hole into which a person could fall guarded by either a standard railing and toeboard or floor hole cover?	Y N N/A
5. Is every floor hole into which a person could not fall (because of fixed machinery, equipment, or walls) protected by a cover that leaves no openings more than 1 inch wide? <i>Note: The cover must be securely held in place to prevent tools or materials from falling through.</i>	Y N N/A
6. Where doors or gates open directly onto a stairway, does a platform allow an effective width of at least 20 inches when the door swings open?	Y N N/A
7. Is every open-sided floor or platform that is 4 feet or more above the adjacent floor ground level guarded by a standard railing on all open sides?	Y N N/A
8. Is every runway guarded by a standard railing on all open sides that are 4 feet or more above the floor or ground level?	Y N N/A
9. Regardless of height, are all open-sided floors, walkways, platforms, or runways guarded with a standard railing and toeboard if they are above or adjacent to any dangerous equipment or operation?	Y N N/A
10. Is every open-sided floor or platform that is 4 feet or more above the adjacent floor ground level guarded by a toeboard if, beneath the open sides: a. people could pass; b. machinery could move; or c. equipment could create a hazard of falling materials?	Y N N/A
11. Is every wall opening from which the drop is more than 4 feet guarded with a standard railing or other barriers?	Y N N/A

	Circle the Appropriate Answer
12. Is every window wall opening guarded by slats, grill work, or standard railing if: a. it is at a stairway landing, floor, platform, or balcony from which the drop is more than 4 feet; and b. the bottom of the opening is less than 3 feet above the platform or landing?	Y N N/A
13. Is every flight of stairs with four or more risers equipped with standard stair railings or standard handrails as specified below? a. On stairways less than 44 inches wide with both sides enclosed, at least one handrail is required, preferably on the right hand side descending. b. On stairways less than 44 inches wide with one open side, at least one stair railing must be on the open side. c. On stairways less than 44 inches wide with both sides open, one stair railing is required on each side. d. On stairways more than 44 inches wide but less than 88 inches wide, one handrail on each enclosed side and one stair railing on each open side is required. e. On stairways 88 or more inches wide, one handrail on each enclosed side, one side railing on each open side, and one intermediate stair railing located approximately midway of the width is required.	Y N N/A
14. Where standard railings are provided, do they meet the following specifications? a. The rail must consist of a top rail at a height of 42 inches and a mid rail at approximately 21 inches. b. The top rail must be smooth surfaced throughout the length of the railing. It must be able to withstand a force of 200 pounds in any direction with a deflection of less than 2 inches.	Y N N/A
15. Are all stair railings between 30 and 34 inches from the top of the rail to the surface of the tread in line with the face of the riser at the forward edge of tread?	Y N N/A
16. If wooded railings are used for guardrails, are the posts at least 2 inch by 4 inch and spaced less than 6 feet apart? <i>Note: The top rail and intermediate rails must also be at least 2 inches by 4 inches stock.</i>	Y N N/A
17. If pipe railings are used, are posts and top and intermediate rails at least 1 1/2 inches nominal diameter with posts spaced less than 8 feet on centers?	Y N N/A
18. If structural steel is used for guardrails, are the posts and top and intermediate rails: a. at least 2 inches by 3/8 inch angle irons; or b. other metal shapes of equivalent bending strength with posts spaced not more than 8 feet on centers?	Y N N/A
19. Is the guardrail anchored and of such construction that it is capable of withstanding a load of at least 200 pounds applied in any direction at any point on the top rail?	Y N N/A
20. Are standard toeboards at least 4 inches in height provided at the floor of the guardrail?	Y N N/A
21. Are handrails constructed so that they can be easily grasped (i.e., rounded)?	Y N N/A

	Circle the Appropriate Answer
22. Are all handrails and railings provided with a clearance of at least 3 inches between the handrail or railing and any other object? <i>Note: A distance less than this would make it difficult to get a good grasp in an emergency.</i>	Y N N/A
23. Are skylight screens constructed so that they are capable of withstanding a load of at least 200 pounds applied perpendicularly to any area on the screen? <i>Note: Sometimes people get on the roof and fall through skylight screens that are not designed to prevent this type of fall.</i>	Y N N/A
24. Are wall opening barriers (rails, rollers, picket fences, and half doors) constructed and mounted so that the barrier is capable of withstanding a load of at least 200 pounds applied in any direction (except upward) at any point on the top rail or corresponding member?	Y N N/A

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Subchapter C. Hazard Evaluation and Prioritization

§2721. Relative Risk Factors

A. Introduction

1. This part of the worksheet enables the instructor to examine each of the potential hazards (the "N" answers) that were identified in Subchapter B of this Chapter 27, Hazard Identification, and to assign it a value corresponding to its relative risk. Relative risk is usually defined in terms of three factors:

- a. severity;
- b. frequency/probability; and
- c. exposure.

2. Each of the factors listed in Subparagraphs a-c is described in Subsections B-D.3 below, and the point values are provided for the corresponding degree of risk.

NOTE: The greater the risk, the higher the point value.

B. Severity. Consider the potential losses or destructive and disruptive consequences that are most likely to occur if any of the hazards that have been identified in Subchapter B of this Chapter 27, Hazard Identification, result in an actual incident. The following point values are suggested.

- 1. Four Points—Catastrophic:
 - a. loss of life;
 - b. permanent disability;
 - c. loss of entire facility;
 - d. permanent.
- 2. Three Points—Critical:
 - a. severe injury or illness with lost time;
 - b. major property damage;
 - c. no permanent disability or fatality;
 - d. interruption of activities for extended period of time.
- 3. Two Points—Marginal:
 - a. minor injury or illness;
 - b. minor property damage;
 - c. interruption of activities for more than one day.
- 4. One Point—Negligible:
 - a. probably no injury or illness;
 - b. no loss other than interruption of activities for a short period of time.

- C. Frequency/Probability (Likelihood of Occurrence)
 - 1. Consider the probability that a loss would occur. Ask yourself the following key questions.
 - a. How likely is it that things will go wrong as a result of the hazard that has been identified?
 - b. How often is the activity which creates the hazard performed?
 - c. How often is the hazard present?
 - 2. Use the following point values.
 - a. Three Points—high probability of occurrence.
 - b. Two Points—moderate probability of occurrence.
 - c. One Point—low probability of occurrence.
- D. Exposure. Consider the number of persons (students and faculty) who could be potentially affected by a worst case scenario caused by each of the potential hazards that have been identified. The following point values are suggested.

- 1. Three Points—many persons are affected frequently.
- 2. Two Points—a few persons are affected frequently.
- 3. One Point—a few persons are affected up to a few times per day.

E. Prioritization. Based on the analysis above, and using the hazard prioritization matrix below, prioritize the hazards identified in Subchapter B of this Chapter and evaluated in §2721.B-D.3.

- 1. Step One. List each of the hazardous conditions that were identified in Subchapter B of this Chapter 27 in the first column of the worksheet.
- 2. Step Two. Based on the criteria given above in §2721.B-D.3, assign a point value for each hazard in each of the three columns.
- 3. Step Three. Add up the point values, horizontally, for each of the hazards.
- 4. Step Four. Rearrange the hazards that were identified in descending order with the one having the highest total point value first, then the one with the next-highest point value; and so on.

Hazard Prioritization Matrix				
Hazard Identified	Severity	Probability	Exposure	Total Points

5. Step Five. A list has just been developed of the potentially hazardous conditions existing at the school facility based on their relative priority.

F. The items on the prioritized list with the highest point value will generally be those that are most serious, and should receive the greatest attention in terms of resources expended to eliminate it. As with all organizations, especially educational institutions, resources are not without limitations. There is a finite amount of money, time, and personnel available to solve these problems. By prioritizing the hazards and concentrating in order on those with the highest priority, concentration will be on the "worst first." This is the smart way to allocate limited resources. Even

though instructors might not get all the way through the list, there will be the satisfaction and peace of mind that comes with dealing with the "really important" problems first.

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Subchapter D. Hazard Control Measures

§2933. Control Categories

A. This Subchapter D is to implement those control measures that will either eliminate or minimize hazards to the point where they will become acceptable. Also, these control measures will be applied to the most serious hazards first, then to the next-most-serious, and so on.

B. Most control measures fall into one or more of three categories. Paragraphs 1-3 below list the three types, and also outline the preferred sequence for applying the controls, as engineering controls are the most effective way to control a hazard, followed by administrative controls and finally by personal protective equipment. Many times, the most effective controls are a blending of all three types. They are:

1. engineering controls;
2. administrative controls; and
3. personal protective equipment (PPE).

C. Engineering Controls. Usually engineering controls are considered the most effective because, if they are successful, they eliminate the hazard, or remove it from the presence of people. When applying engineering controls, look for ways to:

1. design or redesign hazardous situations or equipment;
2. substitute safer materials in the place of dangerous ones; and
3. install guards or other protective devices.

D. Management/Administrative Controls. Management/administrative controls are next in line to be applied in the control of a hazard because they are the direct responsibility of the persons who are operating the facility. In an educational environment, that means the administration and faculty. These controls involve such things as:

1. implementation and enforcement of safe policies and procedures;
2. limitations on the exposure to hazards through work assignments, number of persons involved in an activity, etc.; and
3. similar approaches.

E. Personal Protective Equipment (PPE). The last approach to hazard control involves the use of PPE. This is because PPE does not eliminate the hazard but, rather, only establishes a barrier or shield between the hazard and the exposed person. If the exposed person does not have the correct type of PPE, or does not use it properly, then that person will be exposed to the full effect of the hazard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:78 (January 2007).

Chapter 29. Means of Egress/Escapes

Subchapter A. General Provisions

§2901. Worksheet Instructions

A. Use this worksheet as a guide to conduct a survey of the instructional facilities. Answer each of the listed questions by circling the answer that applies to the condition

at the facility. "Y" indicates "Yes," "N" indicates "No," and "N/A" indicates "Not Applicable." If any of the questions are answered "N" for "No," it is the sign of a condition that may indicate a possible hazard. For every "N" marked, write a brief description of the deficient condition observed in the space provided at the end of the worksheet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:78 (January 2007).

Subchapter B. General

§2911. Self-Inspection

A. Checklist

	Circle the Appropriate Answer
1. Are exits provided to permit the prompt escape of occupants in case of fire or other emergency?	Y N N/A
2. Is every exit, way of approach, and way to travel from the exit to the street continuously maintained and free of all obstructions or impediments? <i>Note: The following items, if they block fire exists, are examples of violations:</i> i. boxes of light tubes; ii. empty boxes; iii. a cart; iv. metal fence posts; v. lawnmowers; vi. steel racks; vii. wood; viii. tools; ix. scales; x. ball racks; xi. soccer balls; xii. stored equipment; xiii. machines on the floor; and xiv. tripping hazards such as electric cords, tools, lumber, and hoses.	Y N N/A
3. Are exits maintained so as to provide free and unobstructed egress or escape when the room is occupied? <i>Note: No locks, chains, or fastenings to prevent free escape from the inside are permitted.</i>	Y N N/A
4. Does every building or area have two exits if one exit could be blocked because of fire, smoke, or other emergency?	Y N N/A
5. Do exits discharge directly onto a street, yard, court, or other open space that gives safe access to a public way?	Y N N/A
6. Do exit doors swing in the direction of travel when an area is occupied by more than 50 people or where hazardous operations are conducted?	Y N N/A
7. Are all exit doors and paths of exit 28 inches or more in width? <i>Note: Examples of violations include a stack of wood restricting the exit to 14 inches, a space of only 17 inches between the desk and the wall, and a space of only 14 inches between desks.</i>	Y N N/A
8. Are means of egress or exit designed and maintained to provide adequate head room, with the ceiling height at least 7 1/2 feet and any projection from the ceiling more than 6 feet 8 inches from the floor?	Y N N/A
9. Is every exit clearly visible and the route to it conspicuously indicated so everyone readily knows the direction of escape from any point?	Y N N/A

	Circle the Appropriate Answer
10. In areas equipped for artificial illumination, do all exit paths have adequate and reliable illumination?	Y N N/A
11. Are exits prohibited through bathrooms or other rooms subject to locking?	Y N N/A
12. Is storage of flammable or combustible materials in exit corridors prohibited?	Y N N/A
13. Is the use of highly flammable furnishings or decorations prohibited?	Y N N/A

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:78 (January 2007).

§2913. Exit Marking

A. Exit Signs

	Circle the Appropriate Answer
1. Is access to exits marked by readily visible signs and arrows when the way to reach it is not immediately visible?	Y N N/A
2. Are doors, passage ways or stairways that are neither exits nor a way to an exit, and which can be mistaken for an exit, marked with a sign reading "Not An Exit" or similar designation? <i>Note: Other appropriate markings would be:</i> i. "To Basement"; ii. "To Storeroom"; iii. "To Linen Closet"; iv. etc.	Y N N/A
3. Are exit signs clearly visible, distinctive in color, and easily distinguished from decorations, interior finish, and other signs? <i>Note: The following are prohibited:</i> i. decorations, furnishings or equipment that impair the visibility of exit signs; and ii. any brightly illuminated sign, display, or object in or near the line of vision of the egress sign that detracts attention from the egress sign so that it is not noticeable.	Y N N/A
4. Is every exit sign illuminated by a reliable light source?	Y N N/A
5. In areas where reduction of normal illumination is permitted, are exit signs internally illuminated?	Y N N/A
6. Does every exit sign have the word "Exit" in plain legible letters not less than 6 inches high, with the principal strokes of letters not less than 3/4 inch wide?	Y N N/A

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:79 (January 2007).

Subchapter C. Hazard Evaluation and Prioritization

§2923. Relative Risk Factors

A. Introduction

1. This part of the worksheet enables the instructor to examine each of the potential hazards (the "N" answers) that were identified in Subchapter B of this Chapter 29, Hazard Identification, and to assign it a value corresponding to its

relative risk. Relative risk is usually defined in terms of three factors:

- a. severity;
- b. frequency/probability; and
- c. exposure.

2. Each of the factors listed in Subparagraphs a - c is described in Subsections B-D.3 below, and the point values are provided for the corresponding degree of risk.

NOTE: The greater the risk, the higher the point value.

B. Severity. Consider the potential losses or destructive and disruptive consequences that are most likely to occur if any of the hazards that have been identified in Subchapter B of this Chapter 29, Hazard Identification, result in an actual incident. The following point values are suggested.

1. Four Points—Catastrophic:

- a. loss of life;
- b. permanent disability;
- c. loss of entire facility;
- d. permanent.

2. Three Points—Critical:

- a. severe injury or illness with lost time;
- b. major property damage;
- c. no permanent disability or fatality;
- d. interruption of activities for extended period of time.

3. Two Points—Marginal:

- a. minor injury or illness;
- b. minor property damage;
- c. interruption of activities for more than one day.

4. One Point—Negligible:

- a. probably no injury or illness;
- b. no loss other than interruption of activities for a short period of time.

C. Frequency/Probability (Likelihood of Occurrence)

1. Consider the probability that a loss would occur. Ask yourself the following key questions.

- a. How likely is it that things will go wrong as a result of the hazard that has been identified?
- b. How often is the activity which creates the hazard performed?
- c. How often is the hazard present?

2. Use the following point values.

- a. Three Points—high probability of occurrence.
- b. Two Points—moderate probability of occurrence.
- c. One Point—low probability of occurrence.

D. Exposure. Consider the number of persons (students and faculty) who could be potentially affected by a worst case scenario caused by each of the potential hazards that have been identified. The following point values are suggested.

1. Three Points—many persons are affected frequently.
2. Two Points—a few persons are affected frequently.
3. One Point—a few persons are affected up to a few times per day.

E. Prioritization. Based on the analysis above, and using the hazard prioritization matrix below, prioritize the hazards identified in Subchapter B of this Chapter and evaluated in §2923.B-D.3.

1. Step One. List each of the hazardous conditions that were identified in Subchapter B of this Chapter 29 in the first column of the worksheet.

2. Step Two. Based on the criteria given above in §2923.B-D.3, assign a point value for each hazard in each of the three columns.

3. Step Three. Add up the point values, horizontally, for each of the hazards.

4. Step Four. Rearrange the hazards that were identified in descending order with the one having the highest total point value first, then the one with the next-highest point value; and so on.

Hazard Prioritization Matrix				
Hazard Identified	Severity	Probability	Exposure	Total Points

5. Step Five. A list has just been developed of the potentially hazardous conditions existing at the school facility based on their relative priority.

F. The items on the prioritized list with the highest point value will generally be those that are most serious, and should receive the greatest attention in terms of resources expended to eliminate it. As with all organizations, especially educational institutions, resources are not without limitations. There is a finite amount of money, time, and personnel available to solve these problems. By prioritizing the hazards and concentrating in order on those with the highest priority, concentration will be on the "worst first." This is the smart way to allocate limited resources. Even though instructors might not get all the way through the list, there will be the satisfaction and peace of mind that comes with dealing with the "really important" problems first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:79 (January 2007).

Subchapter D. Hazard Control Measures

§2937. Control Categories

A. This Subchapter D is to implement those control measures that will either eliminate or minimize hazards to the point where they will become acceptable. Also, these control measures will be applied to the most serious hazards first, then to the next-most-serious, and so on.

B. Most control measures fall into one or more of three categories. Paragraphs 1-3 below list the three types, and also outline the preferred sequence for applying the controls, as engineering controls are the most effective way to control a hazard, followed by administrative controls and finally by personal protective equipment. Many times, the most effective controls are a blending of all three types. They are:

1. engineering controls;
2. administrative controls; and
3. personal protective equipment (PPE).

C. Engineering Controls. Usually engineering controls are considered the most effective because, if they are successful, they eliminate the hazard, or remove it from the

presence of people. When applying engineering controls, look for ways to:

1. design or redesign hazardous situations or equipment;
2. substitute safer materials in the place of dangerous ones; and
3. install guards or other protective devices.

D. Management/Administrative Controls. Management/administrative controls are next in line to be applied in the control of a hazard because they are the direct responsibility of the persons who are operating the facility. In an educational environment, that means the administration and faculty. These controls involve such things as:

1. implementation and enforcement of safe policies and procedures;
2. limitations on the exposure to hazards through work assignments, number of persons involved in an activity, etc.; and
3. similar approaches.

E. Personal Protective Equipment (PPE). The last approach to hazard control involves the use of PPE. This is because PPE does not eliminate the hazard but, rather, only establishes a barrier or shield between the hazard and the exposed person. If the exposed person does not have the correct type of PPE, or does not use it properly, then that person will be exposed to the full effect of the hazard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:80 (January 2007).

Chapter 31. Ergonomics Worksheet

Subchapter A. General Provisions

§3101. Worksheet Instructions

A. Use this worksheet as a guide to conduct a survey of the instructional facilities. Answer each of the listed questions by circling the answer that applies to the condition at the facility. "Y" indicates "Yes," "N" indicates "No," and "N/A" indicates "Not Applicable." If any of the questions are answered "N" for "No," it is the sign of a condition that may indicate a possible hazard. For every "N" marked, write a brief description of the deficient condition observed in the space provided at the end of the worksheet.

B. Additional guidance material may be found in Appendix G, Ergonomics, in the Safety and Health Manual on the Louisiana Department of Education website (<http://www.doe.state.la.us/lde/index.html>).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:80 (January 2007).

Subchapter B. Hazard Identification

§3111. Evaluation

A. Physical Stress

	Circle the Appropriate Answer
1. Does the job require contact of fingers or wrist with sharp edges?	Y N N/A
2. Do hand tools or process equipment vibrate the worker's hands, arms, or whole body?	Y N N/A

B. Force

	Circle the Appropriate Answer
1. Does the job require more than 10 pounds of force?	Y N N/A
2. Does the job require using a pinch grip (between thumb and finger)?	Y N N/A
3. Are gloves used, increasing the force needed for motion of the fingers?	Y N N/A
4. Does the job require frequent heavy lifting (> 40 pounds, two hours per day)?	Y N N/A
5. Does the job require occasional very heavy lifting (> 50 pounds)?	Y N N/A
6. Does the job require handling items that are difficult to grasp?	Y N N/A

C. Posture

	Circle the Appropriate Answer
1. Does the job require flexion or extension (bending up or down) of the wrist?	Y N N/A
2. Does the job require deviating the wrist side to side (ulnar or radial deviation)?	Y N N/A
3. Is the worker seated while performing the job?	Y N N/A
4. Does the job require "clothes wringing" motion?	Y N N/A
5. Does the job require extended reaches beyond normal arm reach?	Y N N/A
6. Does the job require awkward lifts or carries that are: a. near the floor; b. above the shoulders; or c. far in front of the body?	Y N N/A
7. Does the job require exertion of pushing, pulling, lifting, or lowering forces in awkward positions to side, overhead, or at extended reaches?	Y N N/A
8. Do workers sit on the front edges of chairs?	Y N N/A
9. Is the worker required to maintain the same posture, either sitting or standing, all of the time?	Y N N/A

D. Workstation

	Circle the Appropriate Answer
1. Is the orientation of the work surface nonadjustable?	Y N N/A
2. Does the work surface appear to be too high or too low for many operators?	Y N N/A
3. Is the location of the tool nonadjustable?	Y N N/A
4. Does the job require handling oversized objects that require two-person lifting?	Y N N/A
5. Is there an absence of material handling aids, such as air hoists and scissors tables?	Y N N/A
6. Do workers attempt to modify their chairs or work surfaces by adding cushions or pads?	Y N N/A

E. Repetitiveness

	Circle the Appropriate Answer
1. Does the job require that one motion pattern be repeated at a high frequency?	Y N N/A
2. Is the cycle time for repetitive operations less than 30 seconds?	Y N N/A
3. Is the work pace rapid and not under the operator's control?	Y N N/A

F. Tool Design

	Circle the Appropriate Answer
1. Is the handle too large for the thumb and finger to slightly overlap around a closed grip?	Y N N/A
2. Is the span of the tool's handle less than 5 cm (2 inches)?	Y N N/A
3. Is the handle of the tool made of metal?	Y N N/A
4. Is the weight of the tool greater than 10 pounds?	Y N N/A
5. Are heavy tools lacking devices to suspend some of their weight?	Y N N/A
6. Does the use of the tool require flexion or extension of the wrist (bending up or down)?	Y N N/A
7. Does the tool require ulnar or radial deviation of the wrist (bending to either side)?	Y N N/A

G. Work Environment

	Circle the Appropriate Answer
1. Are housekeeping practices poor, e.g., aisles cluttered, waste on the floor?	Y N N/A
2. Are floors uneven or slippery?	Y N N/A
3. Does the job require frequent (daily) stair or ladder climbing?	Y N N/A
4. Do the work tasks contain significant visual components, requiring good lighting?	Y N N/A
5. Does the worker's eye have to move periodically from dark to light areas?	Y N N/A
6. Is the air temperature uncomfortably hot or cold?	Y N N/A

H. Computer Work Stations

	Circle the Appropriate Answer
1. Are Video Display Terminals (VDT) Stations arranged so that lighting does not reflect directly off the screen?	Y N N/A
2. Do the seat and backrest of the chair support comfortable posture permitting occasional variation in the sitting positions?	Y N N/A

	Circle the Appropriate Answer
3. Is the seat height adjustable so that the entire sole of the foot rests on the floor or a footrest, and the back of the knee is slightly higher than the seat of the chair?	Y N N/A
4. Is the backrest height adjustable?	Y N N/A
5. Is the backrest angle adjustable?	Y N N/A
6. Is the workstation adjusted so that the wrist is in a straight line, i.e., not bent up or down?	Y N N/A
7. Is the topmost line of the screen slightly below eye level?	Y N N/A
8. Can the screen position be tilted?	Y N N/A
9. Is the document holder positioned at the same height and at the same distance from the viewer as the screen?	Y N N/A
10. Is the work surface large enough to hold all needed reference material (at least 35 inches wide)?	Y N N/A
11. Can paper be easily and conveniently loaded into printers without the need for lifting heavy boxes in awkward postures?	Y N N/A
12. Does the screen have color, brightness, and contrast satisfactory with the operator?	Y N N/A
13. Does excessive illumination at the VDT produce glare or distortion of the screen or does low illumination make it difficult to read documents?	Y N N/A
14. Are characters on the screen clear and free of flicker or jitter?	Y N N/A
15. Is there adequate room under the work table to permit movement of operator's legs and footrest where necessary?	Y N N/A
16. Do task schedules allow the operator at least a 15 minute break period during each two-hour period?	Y N N/A

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:80 (January 2007).

Subchapter C. Hazard Evaluation and Prioritization

§3121. Relative Risk Factors

A. Introduction

1. This part of the worksheet enables the instructor to examine each of the potential hazards (the "N" answers) that were identified in Subchapter B of this Chapter 31, Hazard Identification, and to assign it a value corresponding to its relative risk. Relative risk is usually defined in terms of three factors:

- severity;
- frequency/probability; and
- exposure.

2. Each of the factors listed in Subparagraphs a-c is described in Subsections B-D.3 below, and the point values are provided for the corresponding degree of risk.

NOTE: The greater the risk, the higher the point value.

B. Severity. Consider the potential losses or destructive and disruptive consequences that are most likely to occur if any of the hazards that have been identified in Subchapter B of this Chapter 31, Hazard Identification, result in an actual incident. The following point values are suggested.

- Four Points—Catastrophic:
 - loss of life;
 - permanent disability;
 - loss of entire facility;

- permanent.
- Three Points—Critical:
 - severe injury or illness with lost time;
 - major property damage;
 - no permanent disability or fatality;
 - interruption of activities for extended period of time.
 - Two Points—Marginal:
 - minor injury or illness;
 - minor property damage;
 - interruption of activities for more than one day.
 - One Point—Negligible:
 - probably no injury or illness;
 - no loss other than interruption of activities for a short period of time.

C. Frequency/Probability (Likelihood of Occurrence)

- Consider the probability that a loss would occur. Ask yourself the following key questions.
 - How likely is it that things will go wrong as a result of the hazard that has been identified?
 - How often is the activity which creates the hazard performed?
 - How often is the hazard present?
- Use the following point values.
 - Three Points—high probability of occurrence;
 - Two Points—moderate probability of occurrence;
 - One Point—low probability of occurrence.

D. Exposure. Consider the number of persons (students and faculty) who could be potentially affected by a worst case scenario caused by each of the potential hazards that have been identified. The following point values are suggested.

- Three Points—many persons are affected frequently;
- Two Points—a few persons are affected frequently;
- One Point—a few persons are affected up to a few times per day.

E. Prioritization. Based on the analysis above, and using the hazard prioritization matrix below, prioritize the hazards identified in Subchapter B of this Chapter and evaluated in §3121.B-D.3.

- Step One. List each of the hazardous conditions that were identified in Subchapter B of this Chapter 31 in the first column of the worksheet.
- Step Two. Based on the criteria given above in §3121.B-D.3, assign a point value for each hazard in each of the three columns.
- Step Three. Add up the point values, horizontally, for each of the hazards.
- Step Four. Rearrange the hazards that were identified in descending order with the one having the highest total point value first, then the one with the next-highest point value; and so on.

Hazard Prioritization Matrix				
Hazard Identified	Severity	Probability	Exposure	Total Points

5. Step Five. A list has just been developed of the potentially hazardous conditions existing at the school facility based on their relative priority.

F. The items on the prioritized list with the highest point value will generally be those that are most serious, and should receive the greatest attention in terms of resources expended to eliminate it. As with all organizations, especially educational institutions, resources are not without limitations. There is a finite amount of money, time, and personnel available to solve these problems. By prioritizing the hazards and concentrating in order on those with the highest priority, concentration will be on the "worst first." This is the smart way to allocate limited resources. Even though instructors might not get all the way through the list, there will be the satisfaction and peace of mind that comes with dealing with the "really important" problems first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:82 (January 2007).

Subchapter D. Hazard Control Measures

§3125. Control Categories

A. This Subchapter D is to implement those control measures that will either eliminate or minimize hazards to the point where they will become acceptable. Also, these control measures will be applied to the most serious hazards first, then to the next-most-serious, and so on.

B. Most control measures fall into one or more of three categories. Paragraphs 1-3 below list the three types, and also outline the preferred sequence for applying the controls, as engineering controls are the most effective way to control a hazard, followed by administrative controls and finally by personal protective equipment. Many times, the most effective controls are a blending of all three types. They are:

1. engineering controls;
2. administrative controls; and
3. personal protective equipment (PPE).

C. Engineering Controls. Usually engineering controls are considered the most effective because, if they are successful, they eliminate the hazard, or remove it from the presence of people. When applying engineering controls, look for ways to:

1. design or redesign hazardous situations or equipment;
2. substitute safer materials in the place of dangerous ones; and
3. install guards or other protective devices.

D. Management/Administrative Controls. Management/administrative controls are next in line to be applied in the control of a hazard because they are the direct responsibility of the persons who are operating the facility. In an educational environment, that means the administration and faculty. These controls involve such things as:

1. implementation and enforcement of safe policies and procedures;
2. limitations on the exposure to hazards through work assignments, number of persons involved in an activity, etc.; and
3. similar approaches.

E. Personal Protective Equipment (PPE). The last approach to hazard control involves the use of PPE. This is because PPE does not eliminate the hazard but, rather, only

establishes a barrier or shield between the hazard and the exposed person. If the exposed person does not have the correct type of PPE, or does not use it properly, then that person will be exposed to the full effect of the hazard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:83 (January 2007).

Weegie Peabody
Executive Director

0701#013

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—Application Deadline (LAC 28:IV.505)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1). (SG0775R)

Title 28

EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

Chapter 5. Application; Application Deadlines, and Proof of Compliance

§505. Application Deadlines for High School Graduates and Home Study Completers of 2004 and Later and Eligible Non-Graduates

A.1 - 3. ...

B. Deadline for Payment for the Academic Year (College) Immediately Following High School Graduation

1. Beginning with the 2007-2008 academic year (college), to be determined eligible for payment of TOPS awards for the academic year (college) immediately following the academic year (high school) of high school graduation, students must submit the initial FAFSA or on-line application so that it is received no later than the July 1 immediately following the academic year (high school) of graduation.

2. Beginning with the 2007-2008 academic year (college), students will be eligible to receive the full benefits of a TOPS award as provided in §701.E beginning with the academic year (college) immediately after the student's one year anniversary of high school graduation if their initial FAFSA or on-line application is received after the July 1 immediately following the academic year (high school) of high school graduation and no later than the final deadline set forth in Subsection C, below, and the student has met the requirements for continuing eligibility.

3. Examples

a. A 2006-2007 academic year (high school) high school graduate, who enrolls in the fall semester of 2007, will be eligible to receive the full benefits of a TOPS award beginning the fall semester of 2007 if his initial FAFSA or on-line application is received on or before July 1, 2007.

b. A 2006-2007 academic year (high school) high school graduate, who enrolls during the 2007-2008 academic

year, will be eligible to receive the full benefits of a TOPS award beginning the fall semester of 2008 if his initial FAFSA or On-Line Application is received after July 1, 2007 and no later than July 1, 2008, and if he has met the requirements for continuing eligibility.

C. Final Deadline for Full TOPS Award

1.a. Except as provided below, through the 2006-2007 academic year (college), in order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or the on-line application is July 1 immediately prior to the academic year (college) he first enrolls as a first-time freshman in an eligible college or university.

b. Beginning with the 2007-2008 academic year (college), in order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or on-line application is July 1 immediately prior to the academic year (college) immediately following the one year anniversary of high school graduation.

c.i. Students who graduated from high school during the 2003-2004 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during the 2004-2005 academic year (college) are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning:

(a). with the 2004-2005 academic year (college) if their initial FAFSA or on-line application was received no later than October 29, 2004;

(b). with the 2005-2006 academic year (college) if their initial FAFSA or on-line application was received after October 29, 2004, and no later than July 1, 2005, and, if the student enrolled as a full time student during the 2004-2005 academic year (college), the student has met the requirements for continuing eligibility.

ii. Students who graduated from high school during the 2003-2004 academic year (high school) and enrolled as a first-time freshman in an eligible college or university beginning the fall semester of 2005 are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning the fall semester of 2005 if their initial FAFSA or on-line application was received no later than July 1, 2005.

iii. Students who graduated from high school during the 2003-2004 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during either the 2004-2005 academic year (college) or fall semester of 2005 are eligible for a reduced TOPS award (See Subsection 505.D, below.) beginning with the fall semester of 2005, if their initial FAFSA or on-line application was received after July 1, 2005 and no later than October 31, 2005, and, if the student enrolled as a full time student during the 2004-2005 academic year (college), the student has met the requirements for continuing eligibility.

d.i. Students who graduated from high school during the 2004-2005 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during the 2005-2006 academic year (college) will be eligible to receive the full benefits of a TOPS award as provided in §701.E beginning:

(a). with the 2005-2006 academic year (college) if their initial FAFSA or on-line application is received no later than October 31, 2005;

(b). with the 2006-2007 academic year (college) if their initial FAFSA or on-line application is received after October 31, 2005, and no later than July 1, 2006, and, if the student enrolled as a full time student during the 2005-2006 academic year (college), the student met the requirements for continuing eligibility.

ii. Students who graduated from high school during the 2004-2005 academic year (high school) and enrolled as a first-time freshman in an eligible college or university beginning the fall semester of 2006 are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning the fall semester of 2006 if their initial FAFSA or on-line application was received no later than July 1, 2006.

iii. Students who graduated from high school during the 2004-2005 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during either the 2005-2006 academic year (college) or fall semester of 2006 are eligible for a reduced TOPS award (See Subsection 505.D, below.) beginning with the fall semester of 2006, if their initial FAFSA or on-line application was received after July 1, 2006, and no later than October 30, 2006, and, if the student enrolled as a full time student during the 2005-2006 academic year (college), the student met the requirements for continuing eligibility.

e.i. Students who graduate from high school during the 2005-2006 academic year (high school) and enroll as a first-time freshman in an eligible college or university during the 2006-2007 academic year (college) will be eligible to receive the full benefits of a TOPS award as provided in §701.E beginning:

(a). with the 2006-2007 academic year (college) if their initial FAFSA or on-line application is received no later than October 30, 2006;

(b). with the 2007-2008 academic year (college) if their initial FAFSA or on-line application is received after October 30, 2006, and no later than July 1, 2007, and, if the student enrolled as a full time student during the 2006-2007 academic year (college), the student met the requirements for continuing eligibility.

ii. Students who graduated from high school during the 2005-2006 academic year (high school) and enrolled as a first-time freshman in an eligible college or university beginning the fall semester of 2007 are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning the fall semester of 2007 if their initial FAFSA or on-line application was received no later than July 1, 2007.

iii. Students who graduate from high school during the 2005-2006 academic year (high school) and enroll as a first-time freshman in an eligible college or university during either the 2006-2007 academic year (college) or the fall semester of 2007 are eligible for a reduced TOPS award (See Subsection 505.D, below.) beginning with the fall semester of 2007, if their initial FAFSA or on-line application is received after July 1, 2007, and no later than October 29, 2007, and, if the student enrolled as a full time

student during the 2006-2007 academic year (college), the student met the requirements for continuing eligibility.

2. - 2.a. ...

b. Beginning with the 2005-2006 academic year (college), in order for a returning student to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of the student's initial FAFSA or the on-line application is the July 1 immediately following the academic year (college) he first enrolls as a full-time student in an eligible college or university.

3. Examples

a. A 2003-2004 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2004 or spring semester of 2005, will be eligible to receive the full benefits of a TOPS award beginning with the first semester of enrollment as a full-time student if his initial FAFSA or on-line application is received no later than July 1, 2004.

b. A 2003-2004 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2004 or spring semester of 2005, will be eligible for his full TOPS award beginning with the first semester of enrollment as a full-time student if his initial FAFSA or on-line application is received after July 1, 2004, but on or before October 29, 2004.

c. A 2003-2004 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2004 or spring semester of 2005, will be eligible for his full TOPS award beginning with the fall semester of 2005 if his initial FAFSA or on-line application is received after October 29, 2004, but on or before July 1, 2005, and if he has met the requirements for continuing eligibility.

d. A 2003-2004 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2005, will be eligible to receive the full benefits of a TOPS award if his initial FAFSA or on-line application is received no later than July 1, 2005.

e. A 2003-2004 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2005, will be eligible for a reduced TOPS award (See Subsection 505.D, below.) beginning with the fall semester of 2005 if his initial FAFSA or on-line application is received after July 1, 2005, but on or before October 31, 2005.

f. A 2003-2004 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2005, will not be eligible for a TOPS award if his initial FAFSA or on-line application is received after October 31, 2005.

g. A 2004-2005 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2005 or spring semester of 2006, will be eligible to receive the full benefits of a TOPS award beginning with the first semester of enrollment as a full-time student if his initial FAFSA or on-line application is received no later than July 1, 2005.

h. A 2004-2005 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2005 or spring semester of 2006, will be eligible for his full TOPS award

beginning with the first semester of enrollment as a full-time student if his initial FAFSA or on-line application is received after July 1, 2005, but on or before October 31, 2005.

i. A 2004-2005 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2005 or spring semester of 2006, will be eligible for his full TOPS award beginning with the fall semester of 2006 if his initial FAFSA or on-line application is received after October 31, 2005, but on or before July 1, 2006, and if he has met the requirements for continuing eligibility.

j. A 2004-2005 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2006, will be eligible to receive the full benefits of a TOPS award if his initial FAFSA or on-line application is received no later than July 1, 2006.

k. A 2004-2005 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2006, will be eligible for a reduced TOPS award (See Subsection 505.D, below.) beginning with the fall semester of 2006 if his initial FAFSA or on-line application is received after July 1, 2006, but on or before October 30, 2006.

l. A 2004-2005 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2006, will not be eligible for a TOPS award if his initial FAFSA or on-line application is received after October 30, 2006.

m. A 2005-2006 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2006 or spring semester of 2007, will be eligible to receive the full benefits of a TOPS award beginning with the first semester of enrollment as a full-time student if his initial FAFSA or on-line application is received no later than July 1, 2006.

n. A 2005-2006 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2006 or spring semester of 2007, will be eligible for his full TOPS award beginning with the first semester of enrollment as a full-time student if his initial FAFSA or on-line application is received after July 1, 2006, but on or before October 30, 2006.

o. A 2005-2006 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2006 or spring semester of 2007, will be eligible for his full TOPS award beginning with the fall semester of 2007 if his initial FAFSA or on-line application is received after October 30, 2006, but on or before July 1, 2007, and if he has met the requirements for continuing eligibility.

p. A 2005-2006 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2007, will be eligible to receive the full benefits of a TOPS award if his initial FAFSA or on-line application is received no later than July 1, 2007.

q. A 2005-2006 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2007, will be eligible for a reduced TOPS award (See Subsection 505.D, below.) beginning with the fall semester of 2007 if his initial

FAFSA or on-line application is received after July 1, 2007, but on or before October 29, 2007.

r. A 2005-2006 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2007, will not be eligible for a TOPS award if his initial FAFSA or on-line application is received after October 29, 2007.

s. A 2006-2007 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2007 or spring semester of 2008, will be eligible to receive the full benefits of a TOPS award beginning with the first semester of enrollment as a full-time student if his initial FAFSA or on-line application is received no later than July 1, 2007.

t. A 2006-2007 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2007 or spring semester of 2008, will be eligible to receive his full TOPS award beginning with the fall semester of 2008 if his initial FAFSA or on-line application is received after July 1, 2007, but on or before July 1, 2008, and if he has met the requirements for continuing eligibility.

u. A 2006-2007 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2008, will be eligible to receive the full benefits of a TOPS award if his initial FAFSA or on-line application is received no later than July 1, 2008.

v. A 2006-2007 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2008, will be eligible for a reduced TOPS award (See Subsection 505.D, below.) beginning with the fall semester of 2008 if his initial FAFSA or on-line application is received after July 1, 2008, but on or before October 29, 2008.

w. A 2006-2007 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2008, will not be eligible for a TOPS award if his initial FAFSA or on-line application is received after October 29, 2008.

x. A student, who enrolls for the first time as a full time student at an accredited out-of-state college and subsequently returns to Louisiana and enrolls as a full-time student in an eligible college or university for the fall semester of 2006, will be eligible for his TOPS award beginning with the fall semester of 2007 if his initial FAFSA or the on-line application is received no later than July 1, 2007.

4. - 5. ...

D. Final Deadlines for Reduced Awards

1. If an application for an initial award under this Chapter is received after the final deadline provided in §503.C above, but not later than 60 days after that deadline, the time period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

2. If an application for an initial award under this Chapter is received more than 60 days after the final deadline provided in §503.C above, but not later than 120 days after that deadline, the time period of eligibility for the award shall be reduced by two semesters or three quarters, or

an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

D.3 - G. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 30:2017 (September 2004), LR 31:37 (January 2005), LR 33:83 (January 2007).

George Badge Eldredge
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0701#030

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—Higher Education
(LAC 28:IV.301 and 1103)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1).(SG0776R)

Title 28

EDUCATION

Part IV. Student Financial Assistance

Higher Education Scholarship and Grant Programs Chapter 3. Definitions

§301. Definitions

A. Where the masculine is used, in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Average Award Amount (TOPS-Tech)—is applicable to those students awarded the TOPS-Tech and TOPS Opportunity, Performance, and Honors Awards who attend LAICU colleges and universities and are enrolled in a vocational, technical education certificate or diploma program or non-academic undergraduate degree program, and is determined by dividing the total dollar value of awards, which are made to students enrolled in the same types of programs in the prior program year (non-academic program) at eligible public colleges and universities that do not offer academic degrees at the baccalaureate level, by the total number of students that received the awards. To ensure that the average award amount (TOPS Tech) is not reduced for students during program year (non-academic program) 2006-2007 because of the adverse affects of Hurricanes Katrina and Rita on student enrollment, the average award amount (TOPS Tech) for program year (non-academic program) 2006-2007 shall be the same as calculated for program year (non-academic program) 2005-2006.

Merit Ranking Formula—a mathematical equation incorporating selected merit factors that is used to rank eligible applicants in the priority by which competitive scholarships are to be awarded. As of July 1, 1997, the TOPS Teacher Award and Rockefeller State Wildlife Scholarship

are the only programs in which applicants are competitively ranked. The following formulas for the merit ranking of scholarship applicants provide for the equating of scores for high school graduating seniors and college students.

a. Formula I—applies to applicants for the Rockefeller State Wildlife Scholarship with less than 24 hours of graded college credit and to applicants for the TOPS Teacher Award with less than 48 hours of graded college credit:

$$\text{Merit Score} = \left(\left(\frac{\text{HSGPA}}{4.00} \right) \times 60 \right) + \left(\left(\frac{\text{ACT}}{36} \right) \times 40 \right)$$

b. Formula IA—applies to applicants for the Rockefeller State Wildlife Scholarship who are qualified home study completers with less than 24 hours of graded college credit:

$$\text{Merit Score} = \left(\frac{\text{ACT}}{36} \right) \times 100$$

c. Formula II—applies to applicants for the Rockefeller State Wildlife Scholarship with 24 or more hours of graded college credit and to applicants for the TOPS Teacher Award with 48 or more hours of graded college credit:

$$\text{Merit Score} = \left(\left(\frac{\text{College GPA}}{4.00} \right) \times 90 \right) + \left(\left(\frac{\text{College Level}}{4} \right) \times 10 \right)$$

d. Formula III—applies to applicants for the TOPS Teacher Award. For those applicants majoring in math or chemistry, an additional 10 points are added to the merit score determined by Formula I or II, resulting in an adjusted merit score.

e. Applicants' merit scores are ranked in descending order with the applicant with the highest merit score ranked first. The number of applicants selected for award is dependent upon the amount of award funds available.

* * *

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993 and 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), repromulgated LR 27:1842 (November 2001), amended LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330 and 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007).

Chapter 11. Rockefeller State Wildlife Scholarship

§1103. Establishing Eligibility

A. To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen; and
2. be a resident of Louisiana, as defined in §301 for at least one year prior to July 1 of the award year; and

3. submit the completed Free Application for Federal Student Aid (FAFSA) or the Renewal FAFSA, whichever is applicable to the student, by final deadline set forth in §501.C or §505.F.; and

4. complete and submit such documentary evidence as may be required by LASFAC; and

5. not have a criminal conviction, except for misdemeanor traffic violations; and

6. agree that award proceeds will be used exclusively for educational expenses; and

7. be enrolled or accepted for enrollment as a full-time undergraduate or graduate student at a Louisiana public college or university majoring in forestry, wildlife or marine science, with the intent of obtaining a degree from a Louisiana public college or university offering a degree in one of the three specified fields; and

- 8.a. must have graduated from high school, and if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, have earned a minimum cumulative high school grade point average of at least 2.50 calculated on a 4.00 scale for all courses completed in grades 9 through 12, have taken the ACT or SAT and received test score results and, beginning with the 2006-2007 academic year (college), have an ACT Score of at least 20; or

- b. beginning with the 2006-2007 academic year (college), must be a qualified home study completer and, if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, achieve an ACT Score of at least 22; or

- c. if, at the time of application, the student applicant has earned 24 or more hours of college credit, then the applicant must have at least a 2.50 cumulative college grade point average; or

- d. if, at the time of application, the student is in graduate school, then the applicant must have at least a 3.00 cumulative grade point average on all credits earned in graduate school.

9. To be a qualified home study completer for the purposes of this Section, the applicant must:

- a. successfully complete at the twelfth grade level a home study program approved by BESE; or

- b. if a Louisiana public high school, a Louisiana nonpublic high school, an approved non-Louisiana high school, or an out-of-state high school was previously attended, has provided LASFAC with certification by the previously attended high school that said student was in good standing at the time the student last attended such school.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:639 (April 1998), amended LR 24:1908 (October 1998), LR 27:1220 (August 2001), repromulgated LR 27:1859 (November 2001), amended LR 28:774 (April 2002), LR 29:125 (February 2003), LR 30:2020 (September 2004), LR 33:87 (January 2007).

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0701#029

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Public Record Requests for Legal Documents (LAC 33:I.2001 and 2305)(OS074)

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 Office of the Secretary regulations, LAC 33:I.2001 and 2305 (Log #OS074).

This rule clarifies that regulations in LAC 33:I.Chapter 23 for public record requests apply to copies made as a direct result of suit for judicial review of an LDEQ decision (typically a permit decision). Suits for judicial review require preparation of an administrative record of decision by the Legal Affairs Division in accordance with LAC 33:I.Chapter 20. Once the administrative record of decision is compiled and indexed, a certified copy is prepared for filing with the court. Often, the person filing suit wants an additional copy of the record being filed for his own use. If an appeal to the First Circuit Court is taken, then an additional copy of the index and record must be filed with that court. All of these copies must be paid for, in accordance with state law. Clarifying that Chapter 23 applies to these records provides authority to charge for copies prepared for filing with a court at the reduced rate. The basis and rationale for this rule are to ensure compliance with state law when providing the public with copies of public records, including when copies are made for submission to a court.

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

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 20. Records of Decision for Judicial Review

§2001. Scope and Purpose

A. ...

B. The copying, assembly, and lodging of a record of decision with a court of competent jurisdiction pursuant to an appeal or other request for judicial review of an agency decision or other department action shall be considered a public records request in accordance with LAC 33:I.Chapter 23.

1. The cost, in accordance with LAC 33:I.Chapter 23, of the preparation of a record of decision for lodging with the court shall be borne by the person seeking judicial review unless otherwise assigned by the court.

2. In the event of conflict between the requirements of LAC 33:I.Chapter 23 and this Chapter, the requirements of this Chapter shall apply.

C. These regulations do not apply to matters handled by the Department of State Civil Service, Division of Administrative Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, 2050.20.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:857 (May 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 33:88 (January 2007).

Chapter 23. Procedures for Public Record Requests §2305. Standard Operating Procedures

A. All requests for copies of public records, including discovery requests, subpoenas duces tecum for production of public records, and the preparation of a record of decision pursuant to LAC 33:I.Chapter 20, shall be made using LDEQ Form ISD-0005-01. A certification on LDEQ Form ISD-0005-02 shall be submitted with a request for free or reduced rate copies. Completed forms may be submitted in person, by mail, by facsimile, or by another approved method. No other form of request will be honored. Copies of the forms may be obtained through the department's website or from the department's custodian of records.

B. Payment shall be made in accordance with the rates established in this Chapter.

C. Advance payment is required, except for a request for an administrative record of decision required to be lodged with a court. Payment shall be made only by check or money order made payable to the Department of Environmental Quality. The department does not accept cash.

D. In order to ensure the preservation of department records, no records shall leave the premises, whether accompanied by agency personnel or otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 29:702 (May 2003), amended by the Office of Environmental Assessment, LR 30:2020 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:88 (January 2007).

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0701#063

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

State Manifest Requirements (LAC 33:V.1107 and 5136)(HW093)

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 Hazardous Waste regulations, LAC 33:V.1107 and 5136 (Log #HW093).

This rule removes state hazardous waste manifest requirements that are no longer valid. A new federally-mandated manifest rule that supersedes the state requirements became effective on September 5, 2006. The EPA rule was adopted by the department in May 2006. This rule cleans up state requirements remaining in the

regulations due to the delayed effective date, including the fee. This rule is required for state RCRA program compliance. The basis and rationale for this rule are to mirror the federal regulations.

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

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental

Quality—Hazardous Waste

Chapter 11. Generators

Subchapter A. General

§1107. The Manifest System

A. General Requirements

1. - 7. ...

8. The requirements of this Chapter and LAC 33:V.1109.C do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding LAC 33:V.1301.A, the generator or transporter must comply with the requirements for transporters set forth in LAC 33:V.1315 and 1317 in the event of a discharge of hazardous waste on a public or private right-of-way.

B. Required Information

1. The manifest must contain all of the following information before being issued:

a. the name, physical address, telephone number, and active EPA identification number of the generator;

b. the name, physical address, telephone number, and active EPA identification number of each transporter;

c. the name, physical address, telephone number, and active EPA identification number of the designated facility;

d. the description of the waste(s) (e.g., proper shipping name, EPA hazardous waste number, etc.) required by Hazardous Materials regulations of the Louisiana Department of Public Safety and Corrections in LAC 33:V.Subpart 2.Chapter 101; and

e. the total quantity of each hazardous waste in tons, cubic yards, pounds, or gallons (liquids only), and the type, including but not limited to, metal drums, barrels, kegs, fiberboard or plastic drums, cargo tanks, tank trucks, dump trucks, metal boxes, cartons, cases, burlap bags, paper bags, plastic bags, wooden drums, portable tanks, tank cars, cylinders, wooden boxes, and fiber or plastic boxes, and number of containers as loaded into or onto the transport vehicle. If the weight is unknown, the volume and estimated weight shall be provided.

B.2. - E.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 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 32:823 (May 2006), LR 33:89 (January 2007).

Chapter 51. Fee Schedules

§5136. Manifest Form Fee

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:267 (March 1995), repealed by the Office of the Secretary, Legal Affairs Division, LR 33:89 (January 2007).

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0701#062

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Waste Tire Fee Exemption for Salvage Yards (LAC 33:VII.10505, 10519, 10521, and 10533)(SW042)

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 Solid Waste regulations, LAC 33:VII.10505, 10519, 10521, and 10533 (Log #SW042).

This rule establishes an exemption from the waste tire fee levied pursuant to R.S. 30:2413(A)(8) for tires salvaged from Louisiana-titled vehicles and sold by scrap or salvage yards. Act 821 of the 2006 Regular Session of the Louisiana Legislature provides for this exemption for the period of July 1, 2006 through June 30, 2008. These regulations provide guidance on which facilities qualify as a scrap or salvage yard and the recordkeeping requirements in order to qualify for the exemption. The basis and rationale for the rule are to implement Act 821 and to promote best management practices for the waste tire program in the state.

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 VII. Solid Waste

Subpart 2. Recycling

Chapter 105. Waste Tires

§10505. Definitions

A. ...

* * *

Qualified Scrap or Salvage Yard—any facility that is required to be licensed pursuant to R.S. 32:752.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000), LR 27:829 (June 2001), LR 27:2226 (December 2001), LR 28:1953 (September 2002), LR 29:2779 (December 2003), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3158 (December 2005), LR 33:89 (January 2007).

§10519. Standards and Responsibilities of Generators of Waste Tires

A. - B. ...

C. Each tire dealer, other than qualified scrap or salvage yard tire dealers selling tires salvaged from a Louisiana-titled vehicle, doing business in the state of Louisiana shall be responsible for the collection of the \$2 waste tire fee upon the sale of each passenger/light truck tire, \$5 waste tire fee upon the sale of each medium truck tire, and \$10 waste tire fee upon the sale of each off-road tire. For recapped or retreaded tires, a waste tire fee of \$1.25 shall be collected upon the sale of each recapped or retreaded tire. *Tire dealer* includes any dealer selling tires in Louisiana, other than qualified scrap or salvage yard tire dealers selling tires salvaged from a Louisiana-titled vehicle. Qualified scrap or salvage yard tire dealers are only exempt on tires salvaged from Louisiana-titled vehicles through June 30, 2008. Any new or used tires sold by qualified scrap or salvage yard tire dealers that are not salvaged from Louisiana-titled vehicles shall have the appropriate fees collected upon the sale.

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

E. - E.1. ...

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

3. "Qualified scrap or salvage yard tire dealers are only exempt on tires salvaged from Louisiana-titled vehicles through June 30, 2008. Any new or used tires sold by qualified scrap or salvage yard tire dealers that are not salvaged from Louisiana-titled vehicles shall have the appropriate fees collected upon the sale."

F. - N. ...

O. All tire wholesalers shall keep a record of all tire sales made in Louisiana. These records shall contain the name and address of the purchaser, the date of the purchase, the number of tires purchased, and the type and size of each tire purchased. These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

P. All generators of waste tires (e.g., new tire dealers, used tire dealers, qualified scrap or salvage yards, and recappers) shall maintain a complete record of purchase invoices, inventory records, and sales invoices for a period of no less than three years. Qualified scrap or salvage yard tire dealers shall make available to the administrative authority the register of business transactions as required by R.S. 32:757(A), and also maintain a record of the number of tires recovered from Louisiana-titled vehicles, which tires are resold. These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours. Qualified scrap or salvage yard tire dealers are only exempt on tires salvaged from Louisiana-titled vehicles through June 30, 2008. Any new or used tires sold by qualified scrap or salvage yard tire dealers that are not salvaged from Louisiana-titled vehicles shall have the appropriate fees collected upon the sale.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:2227 (December 2001), LR 28:1953 (September 2002), LR 29:1818 (September 2003), LR 29:2780 (December 2003), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005), LR 33:90 (January 2007).

§10521. Standards and Responsibilities of Motor Vehicle Dealers

A. - B. ...

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

D. - H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1324 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:91 (January 2007).

§10533. Manifest System

A. - C. ...

D. Completed manifests shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 27:831 (June 2001), LR 27:2228 (December 2001), LR 29:2780 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:91 (January 2007).

Herman Robinson, CPM
Executive Counsel

0701#064

RULE

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

**Emergency Temporary Permits
(LAC 46:XLV.412)**

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., the Louisiana Medical Practice Act, R.S. 37:1270(B) and 37:1275, the Louisiana

Health Emergency Powers Act, R.S. 29:769(E), as amended by Act 207 of the Regular Session of Louisiana Legislature, and as the Louisiana State Board of Medical Examiners (the "board") is authorized with respect to the practice in this state: as a physician pursuant to R.S. 37:1261-1291; as an athletic trainer pursuant to R.S. 37:3301 through 3312; as a clinical exercise physiologist pursuant to R.S. 37:3421 through 3433; as a clinical laboratory scientist pursuant to R.S. 37:1311 through 1329; as a midwife pursuant to R.S. 37:3240 through 3257; as an occupational therapist or occupational therapy assistant pursuant to R.S. 37:3001 through 3014; as a perfusionist pursuant to R.S. 37:1331 through 37:1343; as a physician assistant pursuant to R.S. 37:1360.21 through 1360.38; as a podiatrist pursuant to R.S. 37:611 through 628; as a polysomnographic technologist or polysomnographic technician pursuant to R.S. 37:2861 through 2870; as a private radiological technologist pursuant to R.S. 37:1292; or as a respiratory therapist or respiratory therapy assistant pursuant to R.S. 37:3351 through 3361, the board has adopted LAC Title 46:XLV, Subpart 2, Chapter 3, Subchapter H, §412.

The Rule creates and details the process whereby which the board may issue emergency temporary permits to physicians and allied health care practitioners, who hold a current, unrestricted license or other authority to practice their profession in another state, to provide emergency medical services in Louisiana during a public health emergency, as declared by the governor of this state, and thereafter for such period as the Louisiana Department of Health and Hospitals deems the need for such services continues to exist.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLV. Medical Professions
Subpart 2. Licensure and Certification
Chapter 3. Physicians
Subchapter H. Restricted Licensure, Permits
§412. Emergency Temporary Permits**

A. As used in this Section, the following terms shall have the following meanings.

Allied Health Care Practitioner—an individual, other than a physician, authorized by the board to practice in this state as an athletic trainer pursuant to R.S. 37:3301 through 3312; as a clinical exercise physiologist pursuant to R.S. 37:3421 through 3433; as a clinical laboratory scientist pursuant to R.S. 37:1311 through 1329; as a midwife pursuant to R.S. 37:3240 through 3257; as an occupational therapist or occupational therapy assistant pursuant to R.S. 37:3001 through 3014; as a perfusionist pursuant to R.S. 37:1331 through 37:1343; as a physician assistant pursuant to R.S. 37:1360.21 through 1360.38; as a podiatrist pursuant to R.S. 37:611 through 628; as a polysomnographic technologist or polysomnographic technician pursuant to R.S. 37:2861 through 2870; as a private radiological technologist pursuant to R.S. 37:1292; or as a respiratory therapist or respiratory therapy assistant pursuant to R.S. 37:3351 through 3361.

Board—the Louisiana State Board of Medical Examiners established pursuant to R.S. 37:1263.

DHH—the Louisiana Department of Health and Hospitals or its successor in title.

Physician—an individual authorized by the board to practice medicine in this state, pursuant to R.S. 37:1261-1291.

B. The board may issue an emergency temporary permit to an individual to practice as a physician or allied health care practitioner, valid for a period of not more than 60 days, to provide voluntary, gratuitous medical services in this state during a public health emergency, and for such periods thereafter as DHH shall deem the need for emergency services to continue to exist, at sites specified by DHH or approved by the board, provided such individual:

1. holds a current, unrestricted license in good standing issued by the licensing authority of another state to practice the profession for which the permit is sought; and

2. presents or causes to be presented to the board in advance of providing medical services:

a. indisputable personal identification;

b. a copy of his or her professional license or other information deemed satisfactory by the board on which to verify out-of-state licensure;

c. a completed application and/or such information as may be required by the board; and

d. as to an allied health care practitioner required by the laws of this state to practice under physician supervision, designation of a physician who will serve in such capacity.

C. An emergency temporary permit may be issued upon such terms, conditions, limitations or restrictions as to time, place, nature, and scope of practice as are, in the judgment of the board, deemed necessary or appropriate to its responsibilities under law.

D. The board may, in its discretion, issue a permit under this Section to an individual to practice as a physician or allied health care practitioner who provides medical services other than on a gratuitous basis, and/or at sites other than those specified by DHH or approved by the board. The board may also issue a permit to an individual who satisfies the provisions of R.S. 29:735.I.

E. A physician or allied health care practitioner shall visibly display a permit issued under this Section, or such other identifying information as the board may specify, in plain view on his or her person at all times while exercising the privileges of such permit.

F. An emergency temporary permit entitles the holder to engage in the practice of his profession in the state of Louisiana only for the period specified by such permit and creates no right or entitlement to licensing, registration, certification or renewal of the permit after its expiration.

G. A permit issued under this Section shall expire and become null and void on the earlier of:

1. 60 days from the date on which it was issued;

2. a date specified on the permit less than 60 days from the date of issuance; or

3. the date that the term of voluntary service is terminated.

H. The board may, in its discretion, extend or renew an expired emergency temporary permit for one or two additional 60-day periods provided all conditions prerequisite to original issuance are satisfied.

I. Following termination of a public health emergency the board may, in its discretion, issue, extend or renew a permit under this Section during such period as DHH shall deem the need for emergency services continues to exist.

J. In the event of a conflict between the provisions of this Section respecting emergency temporary permits and those contained in any Chapter administered by the board respecting an allied health care practitioner, the provisions of this Section shall govern.

K. If any rule, Section, provision or item of this Chapter or the application thereof is held to be invalid, such invalidity shall not affect other rules, Sections, provisions, items or applications, and to this end the rules, Sections, provisions and items of this Chapter are hereby deemed to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 1275; R.S. 37:3301-3312; R.S. 37:3421-3433; R.S. 37:1311-1329; R.S. 37:3240-3257; R.S. 37:3001-3014; R.S. 37:1331-1343; R.S. 37:1360.21-1360.38; R.S. 37:611-628; R.S. 37:2861-2870; R.S. 37:1292; R.S. 37:3351-3361 and R.S. 29:769(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 33:91 (January 2007).

Robert Marier, M.D.
Executive Director

0701#036

RULE

Department of Health and Hospitals Board of Practical Nurse Examiners

Temporary Permits (LAC 46:XLVII.1705)

The Board of Practical Nurse Examiners, hereby amends LAC 46:XLVII.101 et seq., in accordance with the provisions of the Administrative Procedure Act, R.S. 950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

The Rule change is to update, clarify and provide specificity to the language that allows for temporary permits to be issued to graduates of board-approved or -accredited practical nursing programs in Louisiana. Language has been added to provide for the expiration of temporary permits issued to applicants for licensure by examination. Language related to the examination closing date is no longer applicable and has been deleted. In addition, the Rule change allows the board to increase the length of time (from 8 weeks to 12 weeks) a temporary permit is valid when said permit is issued to applicants for licensure by endorsement and provides for the board to extend the permit on a case-by-case basis. The increase in the valid time length and the ability for the board to extend the permit are to allow the state and federal agencies conducting criminal background checks sufficient time for fingerprint processing and reporting. Furthermore, the Rule change provides for emergency temporary permits to be issued by the board during a declared state of public health emergency; provides for temporary permits to be issued to a practical nurse providing care to a client being transported into, out of or through the state of Louisiana; and provides for temporary permits to be issued to previously licensed practical nurses currently enrolled in a board approved refresher course.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLVII. Nurses

Subpart 1. Practical Nurses

Chapter 17. Licensure

§1705. Temporary Permit

A. A temporary permit to practice as a practical nurse in Louisiana may be issued to graduates of board approved or accredited practical nursing programs in Louisiana as follows.

1. The application for licensure by examination must be completed and submitted with the appropriate fees, and said application must be reviewed and approved by the board.

2. An official transcript must be submitted by the educational institution from which the applicant graduated, and said transcript must be reviewed and approved by the board.

3. If a temporary permit is granted, that permit shall expire on one of the following three dates, whichever comes first:

- a. eight weeks from the date of issue;
- b. the date of full licensure; or
- c. upon receipt of a score of fail on the licensure examination.

4. The temporary permit shall not be subject to extension or renewal under any circumstances, including reentry and completion of a program in practical nursing.

5. The abbreviation P.N. (T.P.), (Practical Nurse, temporary permit), shall be used with the signature of the applicant on all documents requiring said signature in the course of practice while the temporary permit is valid.

6. The P.N. (T.P.) shall serve only in a staff-nurse position.

7. The P.N. (T.P.) shall assume only those duties and functions commonly included in the staff-nurse position.

8. The P.N. (T.P.) shall practice only in nursing situations in which a registered nurse or physician is providing direct supervision.

B. A temporary permit may be issued to licensees pending disciplinary action at time of license renewal.

C. A 12 week temporary permit may be issued to applicants for licensure by endorsement upon receipt of all of the following: verification of current licensure, in good standing, from another state or U.S. territory; a notarized sworn statement, by the applicant, that the applicant meets the requirements for licensure in this state and has a negative history for criminal activity, a negative history for chemical dependency, and a negative history for complaints against and/or related to any and all licenses held for any profession in any state or U.S. territory; the required fee; and confirmation that required fees and forms have been submitted to the appropriate state and/or federal agencies for the processing of the applicant's criminal history record. The temporary permit shall be immediately revoked upon receipt of information indicating that the applicant may not qualify for licensure. A temporary permit issued to applicants for licensure by endorsement may be extended on a case-by-case basis but may not be reissued to any person, under any circumstances, including reapplication for licensure by endorsement.

D. During a declared state of public health emergency, an emergency temporary permit may be issued to practical nurses licensed in another jurisdiction of the U.S. whose license is current, unrestricted and in good standing in such jurisdiction, provided that the practical nurse register with the board prior to providing practical nursing care. The emergency permit may be issued for 60 days or until termination of the state of public health emergency, whichever comes first. The permit may be extended for two additional 60 day periods. Only gratuitous services may be provided by practical nurses who are working on an emergency temporary permit.

E. A temporary permit may be issued to practical nurses licensed in another jurisdiction of the U.S. whose license is current, unrestricted and in good standing in such jurisdiction for a period not to exceed 14 days when the practical nurse is providing care to a client being transported into, out of or through the state.

F. A temporary permit may be issued to practical nurses enrolled in board approved refresher courses provided the practical nurse has been previously licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:341 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 28:2355 (November 2002), LR 32:637 (April 2006), LR 33:93 (January 2007).

Claire Doody Glaviano, MN, APRN
Executive Director

0701#008

RULE

Department of Health and Hospitals
Office of Public Health

Tuberculosis Control Program—Health Examinations
(LAC 51:II.503 and 505)

The Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, and based on the amendment and reenactment of R.S. 40:1156, amends LAC 51:II.Chapter 5, specifically §503, Mandatory Tuberculosis Testing and §505, Required Medical Examinations of All Persons Admitted to Nursing Homes and Residential Facilities.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part II. The Control of Diseases

Chapter 5. Health Examinations for Employees, Volunteers and Patients at Certain Medical and Residential Facilities

§503. Mandatory Tuberculosis Testing

A. [Formerly paragraph 2:022] All persons prior to or at the time of employment at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Public Health and Hospitals, Office of Public Health out-patient health care facility or any person prior to

or at the time of commencing volunteer work involving direct patient care at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Public Health and Hospitals, Office of Public Health out-patient health care facility shall be free of tuberculosis in a communicable state as evidenced by either:

1. a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration;

2. a normal chest X-ray, if the skin test or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; is positive; or

3. a statement from a licensed physician certifying that the individual is non-infectious if the X-ray is other than normal. The individual shall not be denied access to work solely on the basis of being infected with tuberculosis, provided the infection is not communicable.

B. [Formerly paragraph 2:023] Any employee or volunteer at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Public Health and Hospitals, Office of Public Health out-patient health care facility who has a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a positive blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; or a chest X-ray other than normal, in order to remain employed or continue work as a volunteer, shall complete an adequate course of chemotherapy for tuberculosis as prescribed by a Louisiana licensed physician, or shall present a signed statement from a Louisiana licensed physician stating that chemotherapy is not indicated.

C. [Formerly paragraph 2:024] Any employee or volunteer at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Public Health and Hospitals, Office of Public Health out-patient health care facility who has a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a negative result of a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; in order to remain employed or continue work as a volunteer, shall be re-tested annually as long as the purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; remains negative. Any employee converting from a negative to a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; shall be referred to a physician and followed as indicated in §503. B.

D. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of Louisiana Revised Statutes 40:4(A)(2) and Revised Statutes 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1220 (June 2002), amended LR 32:98 (January 2006), LR 33:93 (January 2007).

§505. Required Medical Examinations of All Persons Admitted to Nursing Homes and Residential Facilities [formerly paragraph 2:026]

A. Any person (adult or child) admitted to any nursing home or other residential facility shall have a complete history and physical examination by a licensed physician within 30 days prior to or 48 hours after admission, except that any resident who has complied with this provision shall be exempt from re-examination if transferred to another residential facility provided the record of examination is transferred to the new facility. This examination shall include laboratory tests as indicated by the history and physical examination. A purified protein derivative intradermal skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration, shall be given to all residents under 35 years of age and a purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method or a blood assay for *Mycobacterium tuberculosis*, approved by the United States Food and Drug Administration, plus a chest X-ray to all residents over 35 years of age, no more than 30 days prior to admission to any nursing home or other residential facility. If the skin test or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration is not done prior to admission, it may be done within 72 hours after admission and interpreted at the appropriate time. A repeat skin test or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration, is not required if the patient has a chest X-ray with no abnormalities indicative of tuberculosis and has had a negative skin test or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration, documented within one year of admission or if the patient has a previously documented positive skin test or a positive result of a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration. A record of the admission history, physical examination, purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration, chest X-ray, and any other laboratory tests shall be a part of the permanent record of each resident. No resident with evidence of active tuberculosis shall be admitted unless the examining physician states that the resident is on an effective drug regimen, is responding to treatment, and presents no imminent danger to other patients or employees, or unless the facility has, been specifically cleared by the Office of Public Health and the Department of Health and Hospitals to house patients with active tuberculosis.

B. [Formerly paragraph 2:026-1] Any resident who is a case or an asymptomatic carrier of a communicable disease

which may pose a serious risk to other patients or employees shall not be admitted except under the supervision of the state health officer or his agent.

C. [Formerly paragraph 2:027] When a suspicious case or carrier of a communicable disease poses a serious public health risk, appropriate measures shall be taken to prevent the disease from spreading to other residents.

D. [Formerly paragraph 2:028] Any child under 18 years of age in any residential facility in the state shall have an annual examination by a licensed physician to determine the child's physical condition, mental condition and the presence of any indication of hereditary or other constitutional disease. Any deformity or abnormal condition found upon examination shall be entered by the physician on the medical record of the child.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1220 (June 2002), amended LR 33:94 (January 2007).

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

0701#015

RULE

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

Direct Service Worker Registry (LAC 48:I.Chapter 92)

Editor's Note: This Rule is being repromulgated to correct an error upon submission. The original Rule may be viewed on pages 2058-2063 of the November 20, 2006 edition of the *Louisiana Register*.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 48:I.Chapter 92 as authorized by R.S. 40:2179-2179.1. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Health Standards

Chapter 92. Direct Service Worker Registry

Subchapter A. General Provisions

§9201. Definitions

Abuse—

1. the willful infliction of physical or mental injury;
2. causing deterioration by means including, but not limited to:
 - a. sexual abuse;
 - b. exploitation; or
 - c. extortion of funds or other things of value to such an extent that the health, moral or emotional well-being of the individual being supported is endangered; or
3. the willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

Department—the Louisiana Department of Health and Hospitals.

Direct Service Worker—an unlicensed person who provides personal care or other services and supports to persons with disabilities or to the elderly to enhance their well-being, and who is involved in face-to-face direct contact with the person and is compensated through state or federal funds. Functions performed may include, but are not limited to, assistance and training activities of daily living, personal care services, and job-related supports.

Exploitation—the illegal or improper use or management of an aged person's or disabled adult's funds, assets or property, or the use of an aged person's or disabled adult's power-of-attorney or guardianship for one's own profit or advantage.

Extortion—the acquisition of a thing of value from an unwilling or reluctant adult by physical force, intimidation or abuse of legal or official authority.

Misappropriation—taking possession without the permission of the individual who owns the personal belongings or the deliberate misplacement, exploitation or wrongful temporary or permanent use of an individual's belongings or money without the individual's consent.

Neglect—failure to provide the proper or necessary medical care, nutrition or other care necessary for a person's well-being.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2058 (November 2006), amended LR 33:95 (January 2007).

§9202. Introduction

A. The Department of Health and Hospitals (DHH) shall develop and maintain a registry for individuals who have, at a minimum, successfully completed a direct service worker training and competency evaluation, and criminal background check. The registry may also indicate additional training obtained to address specialized needs and/or certified medication attendant (CMA) training.

B. The Direct Service Worker Registry will contain the following items:

1. a list of individuals who have successfully completed a direct service worker training curriculum and competency evaluation. Each individual listed will have the following information maintained on the registry:

- a. name;
- b. address;
- c. Social Security number;
- d. phone number;
- e. place of employment;
- f. date of employment;
- g. date employment ceased;
- h. state registration number; and
- i. documentation of any investigation including codes for specific findings of:
 - i. abuse;
 - ii. neglect;
 - iii. extortion;
 - iv. exploitation and misappropriation of property;

and

v. an accurate summary of findings after action on findings are final and after any appeal is ruled upon or the deadline for filing an appeal has expired; and

2. information relative to training and registry status which will be available through procedures established by the Department of Health and Hospitals, Bureau of Health Services Financing, Health Standards Section (HSS).

C. Registrations are renewable annually. The registry will verify renewals and whether the direct service worker has worked 40 hours in an approved setting within the past 12 consecutive months.

D. Employers must use the registry to determine if a prospective hire is a registered direct service worker and if there is a finding that he/she has abused or neglected an individual being supported or misappropriated the individual's property or funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2059 (November 2006), amended LR 33:95 (January 2007).

Subchapter B. Training and Competency Requirements

§9211. General Provisions

A. The direct service worker required training and competency evaluation must both be approved by DHH/HSS.

B. The required hours of training and competency evaluation may be provided by:

1. the licensed provider employing the direct service worker;
2. community colleges;
3. vocational-technical schools; or
4. other educational facilities.

C. Entities may offer the complete training curriculum themselves or may contract with another approved organization or entity to provide the training and/or competency evaluation.

D. A DSW training program must submit copies of competency evaluations such as protocols and tests to be used with the training curriculum.

E. Direct service workers currently employed by a DSW agency on the effective date of this Rule may be deemed to meet the training and competency requirements if:

1. the employer attests, in writing on the department-approved form, to the worker's competency for all required training components; and
2. the direct service worker has 18 months verifiable work experience providing supports/services to the elderly or people with disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2059 (November 2006), amended LR 33:96 (January 2007).

§9213. Trainee Responsibilities

A. An individual who has not performed DSW-related services for pay for at least 40 hours in an approved setting within a consecutive 12-month period after completion of a training and competency evaluation or being placed on the registry must, at a minimum, successfully complete a new

competency evaluation before he/she can be placed on the DSW Registry.

B. Trainees must take the competency evaluation (through skills demonstration and either written or oral examination) within 30 days after completion of the training curriculum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2059 (November 2006), amended LR 33:96 (January 2007).

§9215. Training Curriculum

A. Core Curriculum

1. The curriculum content for the direct service worker training includes material which provides a basic level of both knowledge and demonstrable skills for each individual completing the training. The core curriculum content includes needs of the populations which may be served by the direct service worker.

a. The core curriculum must be a minimum of 16 hours and completion of an approved cardiopulmonary resuscitation (CPR)/First Aide course.

2. Each training curriculum must have behaviorally-stated objectives for each unit of instruction. The unit objectives will be reviewed with the trainees at the beginning of each unit so each trainee will know what is expected of him/her in each part of the training.

B. Minimum Curriculum Requirements

1. The objective of the training curriculum is the provision of quality services by direct service workers who are able to:

- a. communicate and interact competently on a one-to-one basis with individuals as part of the team implementing their care objectives;
- b. demonstrate sensitivity to the individual's emotional, social, and mental health needs through skillful, directed interactions;
- c. assist individuals in attaining and maintaining functional independence; and
- d. exhibit behavior to support and promote the rights of individuals.

2. The trainee must have completed the minimum 16 hours of instruction prior to the trainee's direct involvement with an individual receiving services. The 16 hours of training must include, but is not limited to:

- a. abuse/neglect/misappropriation of property (unit developed by the department);
- b. staff ethics, including:
 - i. the prohibition against soliciting consumers from other provider agencies;
 - ii. respectful interactions with people being served; and
 - iii. the use of "People First Language;"
- c. human and civil rights;
- d. confidentiality and Health Insurance Portability and Accountability Act (HIPAA) of 1996 requirements;
- e. person-centered planning, personal outcomes and self-determination philosophy;
- f. incident documentation and reporting;
- g. documentation of services, progress notes, etc.;
- h. environmental emergency procedures; and

i. infection control/universal precautions.

3. The trainee must complete an approved CPR and First Aide course within 45 days of being hired.

C. Curriculum Approval

1. To get a training curriculum and/or competency evaluation program approved, the entity (provider or school) must submit the following to the department's Health Standards Section:

- a. a copy of the curriculum;
- b. the name of the training coordinator and his/her qualifications; and
- c. a list of any other instructors.

2. If a school is applying for approval, it must identify the place(s) used for classroom instruction and clinical experience.

3. An approved entity (provider or school) must submit any content changes of the training curriculum and competency evaluation to the department for review and approval.

4. If a provider or school, that has an approved curriculum, ceases to provide training and/or competency evaluations, it must notify the department. Prior to resuming the training program and/or competency evaluations, the provider or school must reapply to the department for approval to resume the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2060 (November 2006), amended LR 33:96 (January 2007).

§9217. Training Coordinators

A. Every direct service worker training curriculum must have a training coordinator who provides general supervision of the training received by the DSW.

B. The training coordinator must have the following experience or qualifications:

1. a minimum of two years verifiable experience, via work references, in providing supports or services to people with disabilities, the elderly or chronically ill in any setting including, but not limited to:
 - a. personal care services agency;
 - b. a community residence;
 - c. a hospital; or
 - d. nursing facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2060 (November 2006), amended LR 33:97 (January 2007).

§9219. Competency Evaluation

A. The competency evaluation must be developed and conducted to ensure that each direct service worker, at a minimum, is able to demonstrate competencies in the training areas in §9215.A-B.2.a-i.

B. Written or oral examinations will be provided by the training entity or organizations approved by the department.

C. The examination will reflect the content and emphasis of the training curriculum and will be developed in accordance with accepted educational principles.

D. A substitute examination, including an oral component, will be developed for those direct service

workers with limited literacy skills. This examination must contain all of the content that is included in the written examination and must also include a written reading comprehension portion that will determine competency to read job-related information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2060 (November 2006), amended LR 33:97 (January 2007).

§9221. Compliance with Training and Competency Evaluation

A. The review of compliance with training and competency requirements will include, at a minimum, a review of:

1. training content and length;
2. qualifications of training coordinators; and
3. the written and skills competency evaluation protocols.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2060 (November 2006), amended LR 33:97 (January 2007).

Subchapter C. Provider Participation

§9231. Provider Responsibilities

A. Prior to hiring any direct service worker or trainee, a licensed provider must access the registry to determine if the potential hire is registered.

1. The individual may not be hired unless he/she is in good standing on the registry or he/she is a trainee enrolled in a training program of a provider or school that has an approved training curriculum.

B. The provider or school shall not accept a trainee into a training curriculum until they have verified with the CNA and DSW registries that the potential trainee has not had a finding of abuse, neglect or misappropriation of an individual's property placed on either registry.

C. Onsite direct supervision of the direct service worker is required at all times until he/she completes the training and competency evaluation and is placed on the registry.

1. The trainee must complete the required training and competency evaluation and the results must be submitted by the training provider to the department within 60 days of employment with the provider.

D. Any organization responsible for the training and competency evaluation must report to the registry the names of all individuals who have satisfactorily completed the curriculum after their completion of the training. Within 15 days after a direct service worker has successfully completed the training curriculum and competency evaluation, including the approved CPR training, the provider or school shall notify the registry.

E. Providers shall use the appropriate forms designated by the department to notify the registry of:

1. employment or termination of direct service workers; and
2. persons who have completed a DSW training and/or competency evaluation, including CPR training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:97 (January 2007).

Subchapter E. Violations

§9271. Disqualification of Training Programs

A. The department may prohibit DSW training curriculums offered by providers that have demonstrated substantial noncompliance with training requirements including, but not limited to:

1. the qualifications of training coordinators;
2. training curriculum requirements; or
3. failure of 30 percent of trainees to successfully complete competency evaluations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:98 (January 2007).

§9273. Allegations of Direct Service Worker Wrong-Doing

A. The department, through its Bureau of Appeals, has provided for a process of the review and investigation of all allegations of wrong-doing by direct service workers. Direct service workers and trainees must not:

1. use verbal, mental, sexual or physical abuse, corporal punishment or involuntary seclusion on an individual being supported; nor
2. neglect an individual or commit exploitation, extortion, or misappropriation of the individual's property or funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:98 (January 2007).

§9275. Notice of Violation

A. When there are substantiated charges against the direct service worker, either through oral or written evidence, the department will notify the individual(s) implicated in the investigation of the following information by certified mail:

1. the nature of the violation(s) and the date and time of each occurrence;
2. the department's intent to report these violations to the DSW Registry; and
3. the right to request an informal discussion and the right to an administrative hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:98 (January 2007).

§9277. Informal Dispute Resolution

A. When a direct service worker feels that he/she has been wrongly accused, the following procedure should be followed.

1. The direct service worker may request an informal dispute resolution (IDR) within 15 calendar days of the receipt of the agency's notice of violation. The request for an IDR must be made to the agency in writing.

2. The IDR is designed:
 - a. to provide an opportunity for the direct service worker to informally review the situation;
 - b. for the agency to offer alternatives based on corrections or clarifications, if any; and
 - c. to evaluate the necessity for seeking an administrative hearing.

3. An IDR meeting will be arranged within 20 days of the request.

4. During the IDR, the direct service worker will be afforded the opportunity to:

- a. talk with agency personnel involved in the situation;
- b. review pertinent documents upon which the alleged violation is based;
- c. ask questions;
- d. seek clarifications; and
- e. provide additional information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:98 (January 2007).

Subchapter F. Administrative Hearings

§9285. General Provisions

A. Within 30 calendar days after receipt of the department's notice of violation or the notice of the results of an informal dispute resolution, the direct service worker may request an administrative hearing.

1. The request for an administrative hearing must be made in writing to the department's Bureau of Appeals.

2. The request must contain a statement setting forth the specific charges with which the direct service worker disagrees and the reasons for this disagreement.

3. Unless a timely and proper request is received by the Bureau of Appeals, the findings of the department shall be considered a final and binding administrative determination.

a. Notification of the finding of abuse, neglect and/or misappropriation will then be sent to the DSW Registry to be recorded.

B. When an administrative hearing is scheduled, the Bureau of Appeals shall notify the direct service worker, his/her representative and the agency representative in writing.

1. The notice shall be mailed no later than 15 calendar days before the scheduled date of the administrative hearing and shall contain the:

- a. date of the hearing;
- b. time of the hearing; and
- c. place of the hearing.

C. The administrative hearing shall be conducted by an administrative law judge from the Bureau of Appeals as authorized by R.S. 46:107 and according to the following procedures.

1. An audio recording of the hearing shall be made.
2. A transcript will be prepared and reproduced at the request of a party to the hearing, provided he bears the cost of the copy of the transcript.
3. Testimony at the hearing shall be taken only under oath, affirmation or penalty of perjury.
4. Each party shall have the right to:

- a. call and examine parties and witnesses;
- b. introduce exhibits;
- c. question opposing witnesses and parties on any matter relevant to the issue, even though the matter was not covered in the direct examination;

d. impeach any witness, regardless of which party first called him to testify; and

- e. rebut the evidence against him/her.

5. Any relevant evidence shall be admitted if it is the sort of evidence upon which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make the admission of such evidence improper over objection in civil or criminal actions.

a. Documentary evidence may be received in the form of copies or excerpts.

6. The administrative law judge may question any party or witness and may admit any relevant and material evidence.

7. A party has the burden of proving whatever facts he/she must establish to sustain his/her position.

8. The burden of producing evidence to substantiate the written allegation(s) will be on the department and the provider of services, if appropriate.

9. When the allegation(s) supporting removal from the registry is substantiated, the direct service worker may not rest on the mere denial in his/her testimony and/or pleading(s) but must set forth specific facts and produce evidence to disprove or contest the allegation(s).

D. Any party may appear, and be heard, at any appeals proceeding through an attorney or a designated representative. The representative shall have a written authorization to appear on behalf of the provider.

1. A person appearing in a representative capacity shall file a written notice of appearance on behalf of a provider identifying:

- a. his/her name;
- b. address;
- c. telephone number; and
- d. the party being represented.

E. At the conclusion of the administrative hearing, the administrative law judge shall:

- 1. take the matter under advisement; and
- 2. prepare a written proposed decision which will contain:
 - a. findings of fact;
 - b. a determination of the issues presented;
 - c. a citation of applicable policy and regulations;

and

- d. an order.

F. The written proposed decision is provided to the secretary of the department. The secretary may:

- 1. adopt the proposed decision;
- 2. reject it based upon the record; or
- 3. remand the proposed decision to the administrative law judge to take additional evidence.

a. If the proposed decision is remanded, the administrative law judge shall submit a new proposed decision to the secretary.

G. The decision of the secretary shall be final and binding upon adoption, subject only to judicial review by the

courts. A copy of the decision shall be mailed to the direct service worker at his last known address and to any representative thereof.

H. If there is a final and binding administrative hearing decision to place a finding on the DSW Registry against the direct service worker, the department shall place the direct service worker's name and the adverse findings on the DSW Registry. The occurrence and findings will remain on the DSW Registry permanently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2062 (November 2006), amended LR 33:98 (January 2007).

§9287. Preliminary Conferences

A. Although not specifically required, the Bureau of Appeals may schedule a preliminary conference. The purposes of the preliminary conference include, but are not limited to:

- 1. clarification, formulations and simplification of issues;
- 2. resolution of controversial matters;
- 3. exchange of documents and information;
- 4. stipulations of fact to avoid unnecessary introduction of evidence at the formal review;
- 5. the identification of witnesses; and
- 6. other matters which may aid disposition of the issues.

B. When the Bureau of Appeals schedules a preliminary conference, all parties shall be notified in writing. The notice shall direct any parties and their attorneys to appear on a specific date and at a specific time and place.

C. When the preliminary conference resolves all or some of the matters in controversy, a summary of the findings agreed to at the conference shall be provided by the administrative law judge. When the preliminary conference does not resolve all of the matters in controversy, an administrative hearing shall be scheduled on those matters still in controversy.

1. The hearing shall be scheduled within 30 calendar days following the completion of the preliminary conference or at a time mutually convenient to all parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2062 (November 2006), amended LR 33:99 (January 2007).

§9289. Witnesses and Subpoenas

A. Each party shall arrange for the presence of their witnesses at the administrative hearing.

B. A subpoena to compel the attendance of a witness may be issued by the administrative law judge:

- 1. upon written request by a party and a showing of the need for such action; or
- 2. on his own motion.

C. An application for subpoena duces tecum for the production by a witness of books, papers, correspondence, memoranda or other records shall be made in writing to the administrative law judge. The written application shall:

1. give the name and address of the person or entity upon whom the subpoena is to be served;
2. precisely describe the material that is desired to be produced;
3. state the materiality thereof to the issue involved in the proceeding; and
4. include a statement that, to the best of the applicant's knowledge, the witness has such items in his possession or under his control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2063 (November 2006), amended LR 33:99 (January 2007).

§9291. Continuances or Further Hearings

A. The administrative law judge may continue a hearing to another time or place, or order a further hearing on his own motion or at the request of any party who shows good cause.

B. Where the administrative law judge, at his/her discretion, determines that additional evidence is necessary for the proper determination of the case, he/she may:

1. continue the hearing to a later date and order the party(s) to produce additional evidence; or
2. close the hearing and hold the record open in order to permit the introduction of additional documentary evidence:
 - a. any evidence submitted shall be made available to both parties and each party shall have the opportunity for rebuttal.

C. Written notice of the time and place of a continued or further hearing shall be given. When a continuance of further hearing is ordered during an administrative hearing, oral notice of the time and place of the continued hearing may be given to each party present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2063 (November 2006), amended LR 33:100 (January 2007).

§9293. Failure to Appear at Administrative Hearings

A. If a direct service worker fails to appear at an administrative hearing, a notice/letter of abandonment may be issued by the Bureau of Appeals dismissing the appeal. A copy of the notice shall be mailed to each party.

B. Any dismissal may be rescinded upon order of the Bureau of Appeals if the direct service worker:

1. makes written application within 10 calendar days after the mailing of the dismissal notice; and
2. provides evidence of good cause for his/her failure to appear at the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2063 (November 2006), amended LR 33:100 (January 2007).

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

0701#077

RULE

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

Health Care Services Provider Fees
Pharmacy Services (LAC 48:I.4001)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 48:I.4001 as authorized by R.S. 36:254. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH-GENERAL

Part I. General Administration

Subpart 1. General

Chapter 40. Provider Fees

§4001. Specific Fees

A. - C.2. ...

D. Pharmacy Services. A prescription fee shall be paid by each pharmacy and dispensing physician for each out-patient prescription dispensed. The fee shall be \$0.10 per prescription dispensed by a pharmacist or dispensing physician. Where a prescription is filled outside of Louisiana and not shipped or delivered in any form or manner to a patient in the state, no fee shall be imposed. However, out-of-state pharmacies or dispensing physicians dispensing prescriptions which are shipped, mailed or delivered in any manner inside the state of Louisiana shall be subject to the \$0.10 fee per prescription. The fee only applies to prescriptions which are dispensed and sold for human use. Pharmacies and dispensing physicians subject to prescription fees shall provide documentation quarterly, on a form provided by the department, of utilization for all medications dispensed in conjunction with payment of fees.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:100 (January 2007).

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

0701#075

RULE

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

Pharmacy Benefits Management Program—Antihemophilia
Drugs Reimbursements and Pharmacy Provider Fees
(LAC 50:XXIX.971 and 981)

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

50:XXIX.971 and 981 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 9. Methods of Payment

Subchapter F. Antihemophilia Drugs

§971. Reimbursement

A. 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 32:1066 (June 2006), repealed LR 33:101 (January 2007).

Subchapter G. Provider Fees

§981. Prescription Fee

A. 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 32:1066 (June 2006), repealed LR 33:101 (January 2007).

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

0701#076

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 78—Policy Form Filing Requirements
(LAC 37:XIII.Chapter 101)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended Regulation 78 regarding policy form filing requirements.

The regulation was amended to 1) provide an exception to the requirements of a complete filing for a) the filing of an amendatory rider or endorsement associated or in connection with an insurance product including those that have been previously approved by the department not more than three years prior to the filing of such rider or endorsement and b) the filing of insurance products under the Multi-State Review Program; 2) establish procedures relative to notice for policies that have been deemed approved by the insurer or withdrawn from consideration by the insurer; and, 3) embody statutory fees for policy form filings outlined in the insurance code. Additionally, in accordance with the passage of Act 325 of the 2004 Regular Session of the Louisiana Legislature, the changes permit an insurer to issue a group, health, and accident insurance policy to a multiple employer trust fund established on behalf of participating employers, provided that statutory protections are the same for all participating employers and employees.

The changes affect the following: LAC 37:XIII §10101, §10105, §10107, §10109, §10113, §10115, §10117 and

§10119. Section 10117 has been retitled and pertains to "Severability", which language was contained in §10105. Section 10119 was formerly §10117.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 101. Regulation 78—Policy Form Filing Requirements

§10101. Purpose

A. - A.1. ...

2. to clarify the provisions of R.S. 22:620.B;

3. to protect the interests of insurance consumers and the public through improvements to the form filing, review and approval processes; and

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, Directive 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 33:101 (January 2007).

§10105. Applicability and Scope

A. This regulation applies to all insurers doing business in the state of Louisiana subject to the form filing, review and approval provisions of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, Directive 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 33:101 (January 2007).

§10107. Filing and Review of Health Insurance Policy Forms and Related Matters

A. ...

Affirmative Approval—department approval, as a result of the department taking action, following compliance review of a complete filing, or a filing pursuant to Subsection D hereof.

Association—an organization legally formed for purposes other than the procurement of insurance and, depending upon the particular insurance products in question, meeting the requirements of R.S. 22:215.A(1)(a)(iv), or R.S. 22:250.1(5)(b), or R.S. 22:1734(4), whichever is applicable.

Certification of Compliance—certification by an insurer, executed by an officer or authorized representative of the insurer on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A certification of compliance must be included with any filing for certified approval.

Certified Approval—approval on the basis of an expedited review by the department of a complete filing based upon the inclusion of a statement of compliance and a certification of compliance, executed by an officer or authorized representative of the filing insurer on a form prescribed by the department. The department shall by directive determine those specific types of coverages and particular types of contracts for which the certified approval procedure is either required or available at the option of the insurer.

Commissioner—the Commissioner of Insurance of the Louisiana Department of Insurance.

Complete Filing—the filing of a single insurance product, including any required filing fees; a basic insurance policy form, application form and supplemental application form, if any, to be attached to the policy or be a part of the contract; any life or health and accident rider or endorsement forms; all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable statement of compliance.

* * *

Deemed Approval—approval of a complete filing based upon notice, as provided herein, made to the department by the filing insurer, following expiration of the specific time periods as provided herein, where affirmative approval has not been granted and the filing has not been disapproved by the department.

Department—the Louisiana Department of Insurance.

* * *

Insurer—every person engaged in the business of making contracts of insurance, as further defined in R.S. 22:5. As used in this Section, insurer shall also include fraternal benefit societies and health maintenance organizations.

Method of Marketing—marketing either through independent or captive agents; telephone, electronic mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.

* * *

Trust—a fund established by an employer, two or more employers in the same industry, a labor union, an association, or to a multiple employer trust established by an insurer on behalf of participating employers, pursuant to a trust instrument which transfers title to property and/or funds to one or more trustees to be administered as fiduciaries for the benefit of others, pursuant to R.S. 22:215.A(1). All participating employers and employees must have the same statutory protections that would apply if such policy was purchased by the employer directly from the insurer.

B. ...

1. Pursuant to R.S. 22:620.A, no basic insurance policy form, other than surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, shall be issued, delivered, or used in this state unless and until it has been filed with and approved by the commissioner. This requirement also applies to any group health or accident insurance policy covering residents of Louisiana, regardless of where issued or delivered. Every page of each such form including rider and endorsement forms filed with the department must be identified by a form number in the lower left corner of the page.

2. A health and accident transmittal document must accompany every filing, describing the items included in the filing, the insurance product for which the filing is being made, and the method of marketing to be used for the product. If the filing includes life insurance to be offered as an optional benefit under the base health insurance contract, the policy forms should be submitted in triplicate, notwithstanding the provisions of Paragraph C.2 hereof, and include the appropriate statement of compliance for said life insurance product.

C. ...

1. The department shall designate, by directive, those insurance products which must be filed pursuant to the requirements for certified approval as set forth in Subsection F hereof, "Time Periods and Requirements for Certified Approval of Policy Form Filings." A directive issued pursuant to this Subsection may also designate those insurance products which may, at the discretion of the insurer, be filed either pursuant to said requirements for certified approval, or as ordinary filings subject to review as set forth in Subsection E hereof. All insurance products not so designated shall be filed pursuant to the requirements for compliance review as set forth in Subsection E hereof, "Time Periods and Requirements for Compliance Review of Basic Insurance Policy Forms."

2. - 2.a.i. ...

ii. completed health and accident transmittal document as prescribed by the department;

2.a.iii. - 2.b.ii. ...

iii. completed health and accident transmittal document as prescribed by the department;

iv. - ix. ...

x. proposed plan of operation, as set forth in Regulation 33, Section 525.E for Medicare Select insurance plans, in duplicate;

xi. ...

xii. any new related advertising as defined in Rule 3A, Section 105, in duplicate; and

xiii. ...

c. Filings of policy forms for Long-Term Care insurance must include, in final wording, the following items, in order:

i. ...

ii. completed health and accident transmittal document as prescribed by the department;

iii. - xii. ...

xiii. any new related advertising as defined in Rule 3, Section 1305, in duplicate; and

c.xiv. - d. ...

e. Filings of group health and accident products intended for issuance to an association are limited to associations as defined herein and must include the association's constitution, by-laws, membership application, membership agreement and brochure of membership benefits other than the insurance products offered.

f. Filings of group health and accident products intended for issuance to a trust are limited to trusts established by an employer, an association, or to a multiple employer trust established by an insurer on behalf of participating employers, and must include the trust agreement, articles of incorporation or other instrument creating the trust, and member adoption agreement. If the trust was established by an association, the filing must include the information described in Subparagraph C.2.e hereof.

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed at the discretion of the department, subject to the conditions stated herein, for the following policy forms.

1. - 3. ...

4. Long-Term Care Advertising. No filing fees will be required for these filings.

5. Filings of amendatory riders or endorsements are permitted where the insurance product to be altered was originally certified or granted affirmative approval not more than three years prior to the filing of said amendatory rider or endorsement.

a. Such filings must include either:

i. specimen copies of the pertinent previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized; or

ii. a detailed list that includes:

(a). the department's form filing number;

(b). date of approval; and

(c). the form number for each previously approved policy form for which the amendment applies.

b. Such filings must also include an affidavit, on a form prescribed by the department, affirming that the insurance product, if amended by rider or endorsement as requested, will be fully compliant with all pertinent statutes and regulations. Premium rates and classification of risks are not required with such filings.

c. Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

6. Filings of amendatory riders or endorsements, as needed to bring into compliance with law any existing insurance products that have been previously certified or granted affirmative approval and are currently in force but are no longer being marketed, must include specimen copies of the previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized. Premium rates and classification of risks are not required with such filings. The transmittal document shall advise that the previously approved or certified form is no longer being marketed. Such filings must include statutory filing fees for standardized plans in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

7. Medicare Supplement Rate Filings. Such filings must clearly indicate the percentage of increase in rates for each standardized plan and existing pre-standardized plan. Such filings must include statutory filing fees for standardized plans in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

8. Exclusionary riders pursuant to R.S. 22:250.11.C; provided that the policy form filings and dates approved are identified for each previously approved product with which the exclusionary rider form will henceforth be used. No filing fees will be required for these filings. The exclusionary rider form shall be included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing.

9. Assumption certificates, which must be filed in duplicate, with a single copy of the assumption agreement, letter of domiciliary state approval, information fully identifying the block of business being assumed, the number of covered lives residing in the state of Louisiana to be affected by the assumption, and the effective date of the assumption. No filing fees will be required for these filings.

10. Following approval of a complete filing of a Medicare Supplement insurance product, subsequent filings by the same insurer of standardized plans of insurance of the same type do not require inclusion of associated forms such as the replacement notice or plan of operation, unless changes have been made or the plan of operation has changed. No filing fees will be required for any of the above associated forms. However, subsequent filings of an outline of coverage will require a filing fee in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

11. Following approval of a complete filing of a long-term care insurance product, subsequent filings by the same insurer of other long-term care products do not require inclusion of associated forms such as the replacement notice, personal worksheet, disclosure notice and suitability letter, unless changes have been made. No filing fees will be required for any of the above associated forms. However, subsequent filings of an outline of coverage will require a filing fee in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

12. Forms for lines of insurance or insurance products specifically exempted pursuant to statute.

E. - E.1. ...

2. If a filing is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this regulation.

3. ...

4. If affirmatively approved by order of the commissioner prior to expiration of the 45-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.

5. ...

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the insurer shall submit written notice to the department if the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46, but not earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 45-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

7. The commissioner may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. ...

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46 referred to in Paragraph E.6 or day 61, but not earlier than

the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day extended period, clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

F. - F.3. ...

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming certified approval or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 16, but not earlier than the 15-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

5. No insurer, through an officer or authorized representative, shall file a certification of compliance containing false attestations, or from which material facts or information have been omitted. In the event that the department subsequently learns that a certification of compliance contains any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the insurer may be subjected to the provisions of Subsection I hereof.

G. ...

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing, must comply with all provisions of this Section for such a filing, and, in addition to the required filing fee, must include:

a. - b. ...

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the commissioner on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. - c. ...

d. a copy of the prior order of approval, issued by the commissioner on the previous filing.

3. When a previously approved form has been rewritten, it must be assigned a unique form number, and such form must be filed as an original filing.

H. ...

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, insurers shall revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as

required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise expressed by the Louisiana Legislature.

2. A retrospective review process is utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

3. Insurers shall notify the department in writing to advise when a previously approved basic insurance policy form will no longer be marketed in this state and is being permanently withdrawn from the market. Such notification shall also advise whether or not coverage issued in this state under the policy form remains in force and whether or not such existing business will continue to be renewed. The notification shall provide the policy form numbers being discontinued and dates originally approved by the department.

I. ...

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an insurer, if the department determines that any of the reasons for disapproval as stated in R.S. 22:621 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected insurer or immediately where there has been a violation of the Louisiana Insurance Code that results in irreparable injury, loss, or damage and injunctive relief is necessary. In the event injunctive relief is granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

a. ...

b. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4 and 5 hereof.

2. ...

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the department's withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which department approval has been withdrawn; and

2.c. - 3.b.ii. ...

c. Where such a required change can be clearly explained to prospective policyholders through amendatory endorsement forms or rider forms, such approval shall not extend to any reprinting of such forms.

4. Thirty days following receipt of the notice by the affected insurer, of withdrawal of approval by the department, an affected product shall not be issued by the insurer, except in accordance with a corrective action plan approved by the department. The insurer has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly. In the event the affected insurer issues the product without approval from the department, and injunctive relief is necessary and granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

5. - 7. ...

J. Appeals and Hearings

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Part XXIX of Title 22 of the Louisiana Revised Statutes. Pursuant to R.S. 22:1351, such demand must be in writing, must specify in what respects such person is aggrieved and the grounds to be relied upon as basis for relief to be demanded at the hearing, and must be made within 30 days of receipt of actual notice or, if actual notice is not received, within 30 days of the date such insurer or other person learned of the act, or failure to act, upon which the demand for hearing is based.

K. ...

1. Every person filing policy forms, or related forms, for approval by the department shall maintain the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained for a period of five years after the forms have been withdrawn from the market in accordance with Paragraph H.3 hereof and no coverage issued on risks in this state utilizing such forms remains in force.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 33:101 (January 2007).

§10109. Filing and Review of Life and Annuity Insurance Policy Forms and Related Matters

A.

Affirmative Approval—department approval, as a result of the department taking action, following compliance review of a complete filing, or a filing pursuant to Subsection D hereof.

Certification of Compliance—certification by an insurer, executed by an officer or authorized representative of the insurer on a form prescribed by the department, that

upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A certification of compliance must be included with any filing for certified approval.

Certified Approval—approval on the basis of an expedited review by the department of a complete filing based upon the inclusion of a statement of compliance and a certification of compliance, executed by an officer or authorized representative of the filing insurer on forms prescribed by the department. The department shall by directive determine those specific types of coverage and particular types of contracts for which the certified approval procedure is either required or available at the option of the insurer.

Commissioner—the Commissioner of Insurance of the Louisiana Department of Insurance.

Complete Filing—the filing of a single insurance product, including any required filing fees; a basic insurance policy form, application form and supplemental application form, if any, to be attached to the policy or be a part of the contract; any life or health and accident rider or endorsement forms; all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable statement of compliance.

Deemed Approval—approval of a complete filing based upon notice, as provided herein, made to the department by the filing insurer, following expiration of the specific time periods as provided herein, where affirmative approval has not been granted and the filing has not been disapproved by the department.

Department—the Louisiana Department of Insurance.

Insurer—every person engaged in the business of making contracts of insurance, as further defined in R.S. 22:5. As used in this Section, insurer shall also include fraternal benefit societies.

Method of Marketing—marketing either through independent or captive agents; telephone, electronic mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.

B. ...

1. Pursuant to R.S. 22:620.A, no basic insurance policy form, other than surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, shall be issued, delivered, or used in this state unless and until it has been filed with and approved by the commissioner. This requirement applies to any group life insurance policy or annuity covering residents of Louisiana where issued or delivered in Louisiana. Every page of each such form including rider and endorsement forms filed with the department must be identified by a form number in the lower left corner of the page.

2. A life and annuity transmittal document must accompany every filing, describing the items included in the filing, the insurance or annuity product for which the filing is being made, and the method of marketing to be used for the product. If the filing includes health insurance to be

offered as an optional benefit under the base life insurance contract, the policy forms should be submitted in triplicate, notwithstanding the provisions of Paragraph C.2 hereof, and include the appropriate statement of compliance for said health insurance product.

C. - C.2.a.i. ...

ii. completed life and annuity transmittal document as prescribed by the department;

2.a.iii. - 2.b.i. ...

ii. completed life and annuity transmittal document as prescribed by the department;

iii. - x. ...

c. Filings of group life and annuity products intended for issuance to an association are limited to associations as defined herein, and must include the association's constitution, by-laws, membership application, membership agreement and brochure of membership benefits other than the insurance products offered.

d. Filings of group life and annuity products intended for issuance to a trust are limited to trusts established by an employer or association and must include the trust agreement, articles of incorporation or other instrument creating the trust, and member adoption agreement. If the trust was established by an association, the filing must include the information described in Subparagraph C.2.c hereof. This Subsection shall not apply to trusts established by qualified or government pension plans.

e. Filings of amendatory riders or endorsements are permitted where the insurance product to be altered was originally certified or granted affirmative approval not more than three years prior to the filing of said amendatory rider or endorsement.

i. Such filings must include either:

(a). specimen copies of the pertinent previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized; or

(b). a detailed list that includes:

(i). the department's form filing number;

(ii). date of approval; and

(iii). the form number for each previously approved policy form for which the amendment applies.

ii. Such filings must also include an affidavit, on a form prescribed by the department, affirming that the insurance product, if amended by rider or endorsement as requested, will be fully compliant with all pertinent statutes and regulations. Actuarial memorandums are not required with such filings.

iii. Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

f. Filings of amendatory riders or endorsements as needed to bring into compliance with law any existing insurance or annuity products that have been previously approved and are currently in force but are no longer being marketed, must include specimen copies of the previously approved forms, the dates previously approved, and the specific terms and provisions being amended, underlined in red or otherwise noted. The transmittal letter shall advise that the previously approved form is no longer being marketed. Such filings must include statutory filing fees in

accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed at the discretion of the department, subject to the conditions stated herein, for the following policy forms.

1. - 4. ...

5. Multi-State Review Program. The Multi-State Review Program is a program consisting of several participating states that allows an insurer to simultaneously file an insurance product through the state of Florida's online I-Filing System while providing simultaneous approval of such product in all participating states. Approval is subject to the combined review standards of the participating states. A filing fee is required for insurance products filed under the Multi-State Review Program.

E. - E.1. ...

2. If a filing is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this regulation.

3. ...

4. If affirmatively approved by order of the commissioner prior to expiration of the 45-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.

5. ...

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the insurer shall submit written notice to the department if the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46, but no earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 45-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

7. The commissioner may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. ...

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46 referred to in Paragraph E.6 or day 61 but no earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day extended period, clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

F. ...

1. The department will make available Statements of Compliance setting forth the statutory and regulatory requirements specific to the various forms of coverage and contract types, as well as Certification of Compliance forms.

2. - 3. ...

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming certified approval or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 16, but no earlier than the 15-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

5. No insurer, through an officer or authorized representative, shall file a certification of compliance containing false attestations, or from which material facts or information have been omitted. In the event that the department subsequently learns that a certification of compliance contains any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the insurer may be subjected to the provisions of Subsection I hereof.

G. ...

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. - b. ...

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the commissioner on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. - c. ...

d. a copy of the prior order of approval, issued by the commissioner on the previous filing.

3. When a previously approved form has been rewritten, it must be assigned a unique form number, and such form must be filed as an original filing.

H. ...

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, insurers shall revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any

such subsequent changes in applicable law, or as otherwise expressed by the Louisiana Legislature.

2. A retrospective review process is utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

H.3. - I. ...

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an insurer, if the department determines that any of the reasons for disapproval as stated in R.S. 22:621 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected insurer or immediately where there has been a violation of the Louisiana Insurance Code that results in irreparable injury, loss, or damage and injunctive relief is necessary. In the event injunctive relief is granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

a. ...

b. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4 and 5 hereof.

2. ...

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the department's withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which department approval has been withdrawn; and

2.c. - 3.c. ...

4. Thirty days following receipt of the notice by the affected insurer, of withdrawal of approval by the department, an affected product shall not be issued by the insurer, except in accordance with a corrective action plan approved by the department. The insurer has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly. In the event the affected insurer issues the product without approval from the department, and injunctive relief is necessary and granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

5. - 7. ...

J. Appeals and Hearings

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Part XXIX of Title 22 of the Louisiana Revised Statutes. Pursuant to R.S. 22:1351, such demand must be in writing, must specify in what respects such person is aggrieved and the grounds to be relied upon as basis for relief to be demanded at the hearing, and must be made within 30 days of receipt of actual notice or, if actual notice is not received, within 30 days of the date such insurer or other person learned of the act, or failure to act, upon which the demand for hearing is based.

K. ...

1. Every person filing policy forms, or related forms, for approval by the department shall maintain the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained for a period of five years after the forms have been withdrawn from the market in accordance with Paragraph H.3 hereof and no coverage issued on risks in this state utilizing such forms remains in force.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, Directive 169, R.S. 22:620 and R.S. 22:621.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2544 (December 2002), amended LR 33:105 (January 2007).

§10113. Filing and Review of Property and Casualty Insurance Policy Forms and Related Matters

A. ...

Affirmative Approval—department approval, as a result of the department taking action, following compliance review of a complete filing, or a filing pursuant to Subsection D hereof.

Basic Insurance Policy Form—an insurance contractual agreement delineating the terms, provisions and conditions of a particular insurance product. It includes endorsements, and application forms where written application is required and is to be attached to the policy or be a part of the contract. It does not include policies, riders, or endorsements designed, at the request of the individual policyholder, contract holder, or certificate holder, to delineate insurance coverage upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policy.

Certification of Compliance—certification by an insurer, executed by an officer or authorized representative of the insurer on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A certification of compliance must be included with any filing for certified approval.

Certified Approval—approval on the basis of an expedited review by the department of a complete filing based upon the inclusion of a statement of compliance and a

certification of compliance, executed by an officer or authorized representative of the filing insurer on forms prescribed by the department. The department shall by directive determine those specific types of coverage and particular types of contracts for which the certified approval procedure is either required or available at the option of the insurer.

Commissioner—the Commissioner of Insurance of the Louisiana Department of Insurance.

Complete Filing—the filing of a single insurance product, including any required filing fees; a basic insurance policy form, application form to be attached to the policy or be a part of the contract; all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable statement of compliance.

Deemed Approval—approval of a complete filing based upon notice, as provided herein, made to the department by the filing insurer, following expiration of the specific time periods as provided herein, where affirmative approval has not been granted and the filing has not been disapproved by the department.

Department—the Louisiana Department of Insurance.

Method of Marketing—marketing either through independent or captive agents; telephone, electronic mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.

Rate/Rule Approval—a department notice addressed to an insurer granting authorization to implement or revise rates and/or rules on a specified date.

B. ...

1. Pursuant to R.S. 22:620.A, no basic insurance policy form, other than surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, shall be issued, delivered, or used in this state unless and until it has been filed with and approved by the commissioner. Every page of each such form including rider and endorsement forms filed with the department must be identified by a form number in the lower left corner of the page.

B.2. - C.2.a.ii. ...

iii. completed property and casualty transmittal document as prescribed by the department;

2.a.iv. - 3.a. ...

i. required filing fee, per adoption of each advisory organization's reference or item filing, per insurance company whether or not delayed;

a.ii. - b.iv. ...

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed at the discretion of the department, subject to the conditions stated herein, for the following policy forms:

1. informational filings, submitted for acknowledgement, for surety bond forms as exempted by R.S. 22:620 A(1). No filing fees will be required for these filings.

2. ...

3. application forms or enrollment forms to be used with a particular insurance product, or with multiple insurance products, provided that the policy form filings and dates approved are identified for each previously approved product with which the application form will henceforth be used, and the application form is included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing. No filing fees will be required for these filings;

4. ...

5. riders or endorsements. Filings of amendatory riders or endorsements are permitted where the insurance product to be altered was originally certified or granted affirmative approval.

a. Such filings must include either:

i. specimen copies of the pertinent previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized; or

ii. a detailed list that includes:

(a). the department's form filing number;

(b). date of approval; and

(c). the form number for each previously approved policy form for which the amendment applies.

b. The rider or endorsement forms shall be included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing.

c. Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

E. - E.1. ...

2. If a filing is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this regulation.

3. A basic insurance policy form must be submitted to the department in accordance with the "General Filing Requirements" of this Section no less than 45 days in advance of planned issuance, delivery or use.

4. - 5. ...

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the insurer shall submit written notice to the department if the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46, but not earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 45-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

7. The commissioner may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. ...

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has

been deemed approved on a specific date or, advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46 referred to in Paragraph E.6 or day 61, but not earlier than the 45 day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day extended period, clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

F. - F.2.a. ...

b. signed and dated certification of compliance;

c. all other items as set forth in Paragraph C.2 hereof.

3. ...

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming certified approval or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 16, but no earlier than the 15-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

5. No insurer, through an officer or authorized representative, shall file a certification of compliance containing false attestations or from which material facts or information have been omitted. In the event that the department subsequently learns that a certification of compliance contains any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the insurer may be subjected to the provisions of Subsection I hereof.

G. ...

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing, must comply with all provisions of this Section for such a filing, and, in addition to the required filing fee, must include:

a. - b. ...

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the commissioner on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. - c. ...

d. a copy of the prior order of approval, issued by the commissioner on the previous filing.

3. When a previously approved form has been rewritten, it must be assigned a unique form number, and such form must be filed as an original filing.

H. ...

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, insurers shall revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise expressed by the Louisiana Legislature.

2. A retrospective review process is utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

H.3. - I. ...

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an insurer, if the department determines that any of the reasons for disapproval as stated in R.S. 22:621 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected insurer or immediately where there has been a violation of the Louisiana Insurance Code that results in irreparable injury, loss, or damage and injunctive relief is necessary. In the event injunctive relief is granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

a. ...

b. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4, and 5 hereof.

2. ...

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the department's withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which department approval has been withdrawn; and

2.c. - 3.b.ii. ...

c. Where such a required change can be clearly explained to prospective policyholders through amendatory

endorsement forms or rider forms, an insurer may request department approval to utilize its existing inventory of the policy forms in question subject to the incorporation of approved amendatory endorsement forms or rider forms. Such approval shall not extend to any reprinting of such forms.

4. Thirty days following receipt of the notice by the affected insurer, of withdrawal of approval by the department, an affected product shall not be issued by the insurer, except in accordance with a corrective action plan approved by the department. The insurer has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly. In the event the affected insurer issues the product without approval from the department, and injunctive relief is necessary and granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

5. - 7. ...

J. Appeals and Hearings

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Part XXIX of Title 22 of the Louisiana Revised Statutes. Pursuant to R.S. 22:1351, such demand must be in writing, must specify in what respects such person is aggrieved and the grounds to be relied upon as basis for relief to be demanded at the hearing, and must be made within 30 days of receipt of actual notice or, if actual notice is not received, within 30 days of the date such insurer or other person learned of the act, or failure to act, upon which the demand for hearing is based.

K. ...

1. Every person filing policy forms, or related forms, for approval by the department shall maintain the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained for a period of five years after the forms have been withdrawn from the market in accordance with Paragraph H.3 hereof, and no coverage issued on risks in this state utilizing such forms remains in force.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620 and R.S. 22:621.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2548 (December 2002), amended LR 33:108 (January 2007).

§10115. Penalties

A. Pursuant to R.S. 22:1462.1, "False or Fraudulent Material Information," in accordance with all provisions thereof, and specifically applicable to all documents required by this regulation.

1. It shall be unlawful for any person to intentionally and knowingly supply false or fraudulent material information pertaining to any document or statement required by the department.

A.2. - B. ...

1. The provisions of R.S. 22:1217, including:
a. payment of a monetary penalty of not more than \$1,000 for each and every act or violation, but not to exceed an aggregate penalty of \$100,000 unless the person knew or reasonably should have known he was in violation of applicable law, in which case the penalty shall be not more than \$25,000 for each and every act or violation, but not to exceed an aggregate penalty of \$250,000 in any six-month period; and

1.b. - 2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:110 (January 2007).

§10117. Severability

A. If any provision of this regulation, or its application to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to that end, the provisions of this regulation are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:111 (January 2007).

§10119. Effective Date (formerly Section 10117)

A. This regulation became effective January 1, 2003; however, the amendments to this regulation will become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:111 (January 2007).

James J. Donelon
Commissioner

0701#014

RULE

Department of Revenue Policy Services Division

Interest Abatement and Compromise (LAC 61:III.2115)

Under authority of R.S. 47:1601(A)(2)(c) and (d) and 47:1511 and in accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, adopts LAC 61:III.2115 to provide guidance as to when interest will be abated or compromised.

Revised Statute 47:1601(A)(2)(c) authorizes the secretary to abate interest due to unreasonable errors or delays by the department in performing ministerial or managerial acts. Revised Statute 47:1601(A)(2)(d) authorizes the secretary to waive interest to promote the effective administration of the tax laws. Guidance is needed to make taxpayers aware of the circumstances under which interest will be abated or compromised.

Title 61

REVENUE AND TAXATION

Part III. Department of Revenue—Administrative Provisions and Miscellaneous

Chapter 21. Interest and Penalties

§2115. Abatement and Compromise of Interest

A. Abatement of Interest under R.S. 47:1601(A)(2)(c)

1. The following definitions apply when determining whether interest may be abated under R.S. 47:1601(A)(2)(c).

a. *Managerial Act*—an administrative act that occurs during the processing of a taxpayer's case involving the temporary or permanent loss of records or the exercise of judgment or discretion relating to management of personnel. A decision concerning the proper application of the law is not a managerial act. Further, a general administrative decision, such as the department's decision on how to organize the processing of tax returns or its delay in implementing an improved computer system, is not a managerial act for which interest can be abated under this Section.

b. *Ministerial Act*—a procedural or mechanical act that does not involve the exercise of judgment or discretion, and that occurs during the processing of a taxpayer's case after all prerequisites, such as conferences and review by supervisors, have taken place. A decision concerning the proper application of the law is not a ministerial act.

2. The following circumstances are examples of situations that do not constitute an unreasonable error or delay by the department.

a. Interest accrues as a result of the taxpayer's failure to pay the tax liability he calculates for each period when due.

b. Interest accrues as a result of the taxpayer's failure to pay the entire balance owed once he and the department are in agreement as to the amount of the balance.

c. Interest accrues while the taxpayer waits for a determination of his refund claim in order to offset prior period underpayments.

d. Interest accrues as a result of the taxpayer's failure to cooperate with department personnel. Examples include but are not limited to:

i. the taxpayer does not timely furnish information to the department;

ii. the taxpayer delays meetings or appointments with department personnel.

B. Compromise of Interest under R.S. 47:1601(A)(2)(d)

1. Before the secretary may consider compromising any amount of interest, the taxpayer must have paid all outstanding taxes.

2. When determining whether or not to compromise interest for a taxpayer, the secretary will examine the taxpayer's filing and compliance history, any special circumstances that may exist, and the hazards of litigation. This list is not all-inclusive.

3. Interest may be compromised when the department and the taxpayer interpret the law differently and there is no binding judicial decision regarding the issue. If interest is compromised with regard to an unresolved issue, the taxpayer will agree to thereafter operate under the department's interpretation of the law.

4. Interest may only be compromised for a specific taxpayer if the taxpayer has not had any interest compromised within the past five years.

5. Interest may only be compromised for a specific taxpayer if neither the taxpayer, his affiliates, nor his related entities have ever had any interest compromised that arose from the same issue.

6. The secretary may compromise any portion of the total interest for which compromise is requested.

7. Following is a partial list of circumstances in which interest will not be compromised.

a. Taxpayer is party to a voluntary disclosure agreement for the period in which the interest accrued.

b. Interest accrues as a result of participation in an abusive tax avoidance transaction.

c. Interest that accrues on trust taxes that the taxpayer has collected but not remitted.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:1601(A)(2)(c) and (d) and 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 33:111 (January 2007).

Cynthia Bridges
Secretary

0701#028

RULE

Department of Treasury Board of Trustees of the Louisiana State Employees' Retirement System

Renunciation of Benefit (LAC 58.I.2301)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has amended LAC 58.I.2301. This Rule sets out the terms and conditions under which a retiree may renounce all or part of his benefit. This Rule complies with and is enabled by R.S. 11:515 and 11:452.

Title 58 RETIREMENT

Part I. Louisiana State Employees' Retirement System Chapter 23. Renunciation of Benefit

§2301. Terms and Conditions of Renunciation of Benefit

A. Any person eligible to receive, or receiving, a benefit from the Louisiana State Employees' Retirement System may renounce such benefit under the following terms and conditions.

1. The renunciation shall be unconditional and irrevocable. Once a benefit is renounced, LASERS shall have no further obligation or liability with respect to that benefit, and the person renouncing the benefit shall, under no circumstances, be eligible to receive that benefit.

2. A base benefit may be renounced in whole or in part. An adjustment to a base benefit (cost-of-living adjustment, adjustment for inflation, or one-time

supplemental payment) may only be renounced in its entirety. If an adjustment is renounced, the base benefit need not be renounced.

3. If more than one person is entitled to receive a particular survivor benefit, each person entitled to a portion of the benefit may renounce his entitlement. The person or persons who continue to have an entitlement in that benefit shall receive the benefit to which they are entitled without consideration of the person who becomes ineligible through renunciation. Any adjustment shall be prospective only.

4. If the party making the renunciation is married, the spouse must join in the renunciation.

5. If the person making the renunciation is subject to an executed and effective community property settlement, only that portion of the benefit due the person making the renunciation may be renounced, except as provided for in R.S. 11:446.E.

6. If the person making the renunciation is legally separated or divorced, but is not subject to an executed and effective community property settlement, the renunciation must be approved by the court having jurisdiction over the separation or divorce.

7. If the person making the renunciation is retired and has named a joint and survivor beneficiary, the renunciation cannot affect the joint and survivors' beneficiary or benefit, including adjustments to the joint and survivor benefit.

8. If a benefit is renounced by a member prior to receipt by the member of a sum equal to his or her accumulated contributions, the balance of the accumulated contributions will be paid to the member.

9. A renunciation must be made on a form provided by LASERS, and must be executed before a notary public and two witnesses, neither of whom may be a spouse nor presently named beneficiary. The renunciation is effective and irrevocable when received by LASERS.

10. A person revoking or participating in renunciation of a benefit must hold LASERS harmless from such action.

11. A renunciation may not be used to terminate active participation in LASERS.

12. Amounts credited to a DROP account cannot be renounced.

13. A benefit or portion of a benefit that has been renounced may be used to recoup benefits or refunds of accumulated contributions paid by administrative error or mistake.

14. Only those persons who have selected the maximum benefit or Option 1 under R.S. 11:441 may renounce their entire monthly benefit.

B. LASERS makes no representation with respect to the effect of a renunciation on a person's eligibility for receipt of any state or federal benefits, or for participation in any private, local, state, or federal program. Eligibility for or participation in such programs, or eligibility for or receipt of such benefits, is an issue for which the person making the renunciation is solely responsible. Ineligibility for or termination of participation in such programs or benefits shall not affect the irrevocable character of the renunciation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:452 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement

Cindy Rougeou
Executive Director

0701#055

RULE

**Department of Treasury
Board of Trustees of the Louisiana State Employees'
Retirement System**

Vesting—Prior State Employment
(LAC 58.I.4501 and 4503)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") adopts LAC 58.I.4501 and 4503. The Rules clarify existing law to show which LASERS rank-and-file members are vested for certain eligibility, contribution rates and other matters related to the enactment of Act 75 of 2005. These Rules comply with and are enabled by R.S. 11:515 and 537.

Title 58

RETIREMENT

Part I. State Employees' Retirement System

Chapter 45. Effects of Act 75 of the 2005 Regular Session

§4501. Members Affected

A. This Chapter concerns those members of LASERS affected by Act 75 of the 2005 Regular Session of the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:537.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 33:113 (January 2007).

§4503. Vesting Because of Prior State Employment

A. Members whose first employment making them eligible for membership in the system began on or before June 30, 2006 and who subsequent to that date cease such employment shall remain vested under the retirement eligibility provisions existing on that date, but only so long as they do not receive a refund of their accumulated employee contributions on or after July 1, 2006.

B. Upon application for and acceptance of a refund of accumulated contributions, all rights in the system are cancelled. For the purposes of this Section, a refund shall be considered accepted by the member upon the cashing or negotiating of a check or deposit by electronic funds transfer of an amount representing the bulk of the employee contributions deposited in his or her LASERS account based upon the period of their employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:537.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 33:113 (January 2007).

Cindy Rougeou
Executive Director

0701#054

RULE

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

Abandoned Crab Traps Removal
(LAC 76:VII. 367)

The Wildlife and Fisheries Commission does hereby amend a Rule, LAC 76:VII.367, which provides for an abandoned crab trap removal program. Authority to establish these regulations is vested in the commission by R.S. 56:332(N).

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§367. Removal of Abandoned Crab Traps

A. The use of crab traps shall be prohibited from 6 a.m., March 3, 2007 through 6 a.m. March 12, 2007 within that portion of Lafourche Parish, Jefferson Parish, and Plaquemines Parish as described below.

1. From a point originating from the intersection of the Gulf Intracoastal Waterway and the northern shoreline of Hero Canal; thence due north to a point along the northern shoreline of the Gulf Intracoastal Waterway; thence southward and then westward along the northern shoreline of the Gulf Intracoastal Waterway to a point opposite the western shoreline of Bayou Perot; thence due south to the western shoreline of Bayou Perot; thence southward along the western shoreline of Bayou Perot to Little Lake; thence southward along the western shoreline of Little Lake to 29 degrees, 30 minutes, 00 seconds north latitude; thence eastward along 29 degrees, 30 minutes, 00 seconds north latitude to the eastern shoreline of Wilkinson Canal; thence northward along the eastern shoreline of Wilkinson Canal to its termination; thence due north to the western shore of the Mississippi River; thence northwestward along the western shore of the Mississippi River to a point due east of the northern shoreline of Hero Canal; thence due west to the northern shoreline of Hero Canal; thence westward along the northern shoreline of Hero Canal and terminating at its intersection with the Gulf Intracoastal Waterway.

B. The use of crab traps shall be prohibited from 6 a.m., February 24, 2007 through 6 a.m., March 5, 2007 within that portion of Jefferson Parish, Orleans Parish, St. Bernard Parish, and St. Tammany Parish as described below.

1. From a point originating from the intersection of the Lake Pontchartrain Causeway Bridge and the southern shoreline of Lake Pontchartrain; thence eastward along the southern shoreline of Lake Pontchartrain to Chef Menteur Pass; thence southward along the western shoreline of Chef Menteur Pass to Lake Borgne; thence due south a distance of 1/2 mile from the Lake Borgne shoreline; thence eastward and then northward a distance of 1/2 mile from the Lake Borgne shoreline to a point due east of Catfish Point; thence northwesterly across Rigolets Pass to the southeastern most point of land on Hog Island; thence westward along the northern shoreline of Rigolets Pass to its intersection with U.S. Highway 90; thence northward along U.S. Highway 90 to its intersection with U.S. Highway 190 (Fremaux

Avenue); thence westerly along U.S. Highway 190 to Military Road; thence northward on Military Road to U.S. Highway 190 (Gause Boulevard); thence westward on U.S. Highway 190 (Gause Boulevard) to Causeway Boulevard; thence southward along Causeway Boulevard and then the Lake Pontchartrain Causeway Bridge and terminating at its intersection with the southern shoreline of Lake Pontchartrain.

C. All crab traps remaining in the closed areas during the specified periods shall be considered abandoned. These trap removal regulations do not provide authorization for access to private property; authorization to access private property can only be provided by individual landowners. Crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset. Anyone is authorized to remove these abandoned crab traps within the closed areas. No person removing crab traps from the designated closed areas shall possess these traps outside of the closed areas. The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to designate disposal sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(N).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, and Wildlife and Fisheries Commission LR 30:101 (January 2004), amended LR 31:108 (January 2005), LR 32:266 (February 2006), LR 33:113 (January 2007).

Bryant O. Hammett, Jr.
Secretary

0701#025

RULE

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

No Wake Zone Signage (LAC 76:XI.303)

The Wildlife and Fisheries Commission does hereby enact rules governing the physical construction of no wake zone signage to be placed at boat launches accessible to the public in the state of Louisiana.

**Title 76
WILDLIFE AND FISHERIES
Part XI. Boating**

Chapter 3. Boating Safety

§303. Signage Identifying "No Wake Zone(s)" at Boat Launches Accessible by the Public and Docking Facilities Adjacent to a Boat Launch Accessible by the Public

A. The following regulations shall prescribe the dimensions and physical appearance of signage indicating a "no wake zone" to be placed at boat launches accessible to the public and docking facilities adjacent to boat launches accessible by the public as required by R. S. 34:851.27.

B. For the purposes of being recognized under state law, "no wake zone" signage shall be clearly visible and posted upon a board not less than 3 feet by 3 feet square in size having a white colored background. The signage shall have 2 inch reflective orange borders along each edge and shall

contain a circle in the middle of the sign. The circle shall have a 2 inch wide reflective orange border. Within the orange circle shall be the words "SLOW NO WAKE ZONE" in black characters no less than 5 inches high, with the words "SLOW" on the first line, "NO WAKE" on the second line, and "ZONE" on the third line as depicted on Figure 1 in this Section. On the top right hand corner of the signage shall be listed "LA R.S. 34:851.27" or the applicable local ordinance.

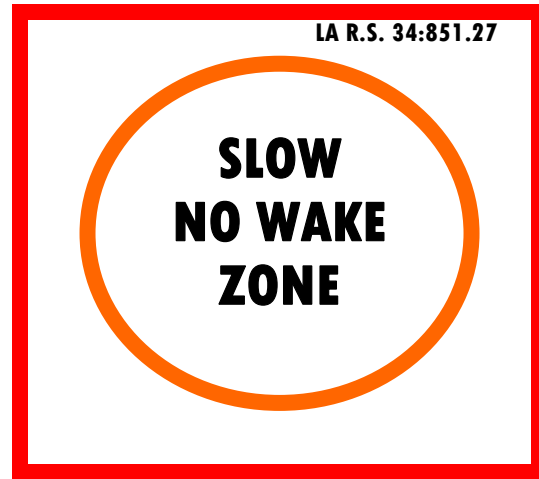


Figure 1

C. No wake zones established pursuant to this Section shall be clearly marked with prescribed signage, 300 feet in all directions from a boat launch or docking facility adjacent to the boat launch which is open to the general public. Signs shall be posted so as to be read both from the launch and the waterway.

D. Local and parish authorities in their respective jurisdictions shall place and maintain signage as prescribed by "LA R.S. 34:851.27" at the start and end of the no wake zones in safe and visible locations. No wake zone endings may be designated on the rear of a sign indicating "end no wake zone" and, signs may indicate the established distance of a no wake zone.

E. Regulatory buoys visible no less than 30 inches high above the water line placed in safe and visible locations may be used to identify start and end points of no wake zones. Regulatory buoys shall have proportionate orange markings as described in Subsection B with the words "SLOW NO WAKE ZONE" in black lettering.

F. No person operating a vessel shall violate the provisions of properly established and marked no wake zones. A violation of this Section shall constitute a Class One violation as provided in R.S. 56:851.31 and R.S. 56:31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:851.27.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 33:114 (January 2007).

Bryant O. Hammett, Jr.
Secretary

0701#026

RULE

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

Spring Squirrel Hunting Season (LAC 76:XIX.103)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission do hereby create and establish rules for a spring squirrel season on private lands and on selected wildlife management areas.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Seasons

**§103. Resident Game Birds and Animals 2006-2007,
2007-2008**

A. - G.1. ...

H. Spring Squirrel Hunting

1. Season Dates: May 5-May 27, 2007 and May 3-May 25, 2008

2. Closed Areas: Kisatchie National Forest, National Wildlife Refuges, and U.S. Army Corps of Engineers property and all WMAs except as provided in Paragraph 3 below.

3. Wildlife Management Area Schedule: Open May 5-May 13, 2007 and May 3-11, 2008 on Bodcau, Boeuf, Clear Creek, Little River, Maurepas Swamp (East Tract), Russell Sage, and Sherburne WMAs only. Dogs are allowed during this season for squirrel hunting. Feral hogs may not be taken on Wildlife Management Areas during this season.

4. Limits: Daily bag limit is 3 and possession limit is 6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:109(B) and R.S. 56:141(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), amended LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), repromulgated LR 29:1521 (August 2003), amended LR 30:1494 (July 2004), LR 31:1627 (July 2005), LR 32:1254 (July 2006), LR 33:115 (January 2007).

Terry D. Denmon
Chairman

0701#019

Notices of Intent

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Payment for Attainment of Advanced Degree; Rewards and Recognition

The State Civil Service Commission will hold a public hearing on Wednesday, February 7, 2007 to consider the following rule proposals. The hearing will begin at 9 a.m. and will be held in the Louisiana Purchase Room Suite 1-100, Claiborne Building, 1201 North Third Street, Baton Rouge, LA.

The following will be considered at the meeting.

Create Rule 6.16(h)

Proposed Rule 6.16(h): Payment for Attainment of an Advanced Degree

An appointing authority may approve a base pay increase of up to 10 percent for a permanent employee who attains a job related Master's Degree, Ph.D., or their equivalent from an accredited college or university while employed at the Department, provided that a Department policy has been approved by the Civil Service Commission and the employee was not previously rewarded for attainment of the degree under another rule.

Explanation

This rule provides a vehicle for agencies wishing to reward employees who have attained advanced education in a field of study related to their job. Currently, an Appointing Authority may grant payment for advanced degrees under Civil Service Rule 6.16(c) Special Pay Provision, provided the Civil Service Commission has approved a policy for the agency's use. This proposed rule clarifies that there is a provision for Payment for Attainment of an Advanced Degree, and establishes the parameter for its use.

Amend Rule 6.16.1

Current Rule: Rewards and Recognition

Subject to the provisions of Rule 6.29, an appointing authority may, at his discretion, implement a program of rewards and recognition for individual employees or for employee groups for significant achievement. Such rewards may be either monetary or non-monetary. If monetary, such rewards shall not exceed a total of 9 percent of the employee's base salary within a fiscal year. Monetary rewards shall not be a part of the employee's base pay, but rather shall be a lump sum reward. Such reward and recognition programs shall be implemented in accordance with written policies and procedures established by each department. Such policies must receive advance approval from the Civil Service Commission and shall be posted in a manner that assures their availability to all employees. Such policies shall also include the public posting of all reward recipients.

Proposed Amendment to Rule 6.16.1 (changes shown in bold italics)

Subject to the provisions of Rule 6.29, an appointing authority may, at his discretion, implement a program of rewards and recognition for individual employees or for employee groups for significant achievement. Such rewards may be either monetary or non-monetary. If monetary, such rewards shall not exceed a total of ***10 percent*** of the employee's base salary within a fiscal year. Monetary rewards shall not be a part of the employee's base pay, but rather shall be a lump sum reward. Such reward and recognition programs shall be implemented in accordance with written policies and procedures established by each department. Such policies must receive advance approval from the Civil Service Commission and shall be posted in a manner that assures their availability to all employees. Such policies shall also include the public posting of all reward recipients.

Explanation

Appointing authorities may grant an additional 1 percent for Rewards and Recognition. The cap for a lump sum payment would be revised from 9 percent to 10 percent of the employee's base salary.

Persons interested in making comments relative to this proposal may do so at the public hearing or by writing to the Director of State Civil Service at Post Office Box 94111, Baton Rouge, Louisiana 70804-9111.

If any accommodations are needed, please notify us prior to this meeting.

Anne S. Soileau
Director

0701#023

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Reassignment; Noncompetitive Re-employment

The State Civil Service Commission will hold a public hearing on Wednesday, February 7, 2007 to consider the following rule proposal. The hearing will begin at 9 a.m. and will be held in the Louisiana Purchase Room Suite 1-100, Claiborne Building, 1201 North Third Street, Baton Rouge, LA.

The following will be considered at the meeting.

Explanation for Proposed Amendment to C.S. Rule 1.33

The proposed amendment to the definition of reassignment is necessary due to the change in Rule 8.16(a). See proposed rule change to 8.16(a) below.

Current C.S. Rule 1.33

Reassignment—means the change within the same department of a probationary or permanent employee from a position in one job to another position in a different job, both jobs of which have the same *pay range*.

Proposed Amendment to C.S. Rule 1.33 (changes shown in bold italics)

Reassignment—means the change within the same department of a probationary or permanent employee from a position in one job to another position in a different job, both jobs of which have the same *maximum rate of pay*.

Explanation for Proposed Amendment to C.S. Rule 8.16(a)

The change to 8.16(a) will change the determination of reassignment from the minimum of the job to the maximum of the job. The maximum of the job is a truer reflection of the worth of the job than is the range minimum. This will make the reassignment rule consistent with the rule on promotions.

Current C.S. Rule 8.16(a) Reassignment

An appointing authority may reassign any probationary or permanent employee to a position with a different job title that has the same *minimum entrance* rate of pay, provided the employee meets the qualification requirements of the job to which he is being assigned and has met Civil Service requirements for testing and competition.

Proposed Amendment to Rule 8.16(a) (changes shown in bold italics)

An appointing authority may reassign any probationary or permanent employee to a position with a different job title that has the same *maximum* rate of pay, provided the employee meets the qualification requirements of the job to which he is being assigned and has met Civil Service requirements for testing and competition.

Explanation of Proposed Amendment to C.S. Rule 8.18

The proposed change to 8.18 redefines the determination of when a former employee can be noncompetitively reemployed. Determination will be partially based on whether the job has the same or lower maximum salary instead of the same or lower entrance salary. The maximum of the job is a truer reflection of the worth of the job than is the range minimum. This will make the noncompetitive reemployment rule consistent with the rule on promotions.

Current C.S. Rule 8.18 Noncompetitive Reemployment Based on Prior State Service

a) Subject to the provisions of Subsections (d), (e) and (f) hereof and with the approval of the Director, a former permanent employee who has been separated from the classified service may, within ten years from separation, be noncompetitively reemployed in any job for which he is qualified and which has the same or lower *entrance* salary as the current *minimum* for the job in which he had permanent status. Further, if the job in which an employee or former employee held permanent status undergoes a change in title, other than an upward reallocation of the position after the employee separated from it, or undergoes a change in minimum qualification requirements, he shall not lose his reemployment eligibility for such position or lower position in the same job series, if such exists, except where the qualification lacking is one required by law or under a

recognized accreditation program. In this case eligibility remains, even if the *entrance* pay has moved upward. Further, he shall be eligible to be reemployed in any other job at the same or lower current *entrance* pay as the job to which his position changed in title, provided he meets the minimum qualification requirements.

Proposed Amendment to Rule 8.18 (changes shown in bold italics)

(a) Subject to the provisions of Subsections (d), (e) and (f) hereof and with the approval of the Director, a former permanent employee who has been separated from the classified service may, within ten years from separation, be noncompetitively reemployed in any job for which he is qualified and which has the same or lower *maximum* salary as the current *maximum* for the job in which he had permanent status. Further, if the job in which an employee or former employee held permanent status undergoes a change in title, other than an upward reallocation of the position after the employee separated from it, or undergoes a change in minimum qualification requirements, he shall not lose his reemployment eligibility for such position or lower position in the same job series, if such exists, except where the qualification lacking is one required by law or under a recognized accreditation program. In this case eligibility remains, even if the *maximum* pay has moved upward. Further, he shall be eligible to be reemployed in any other job at the same or lower current *maximum* pay as the job to which his position changed in title, provided he meets the minimum qualification requirements.

Persons interested in making comments relative to this proposal may do so at the public hearing or by writing to the Director of State Civil Service at Post Office Box 94111, Baton Rouge, LA 70804-9111.

If any accommodations are needed, please notify us prior to this meeting.

Anne S. Soileau
Director

0701#024

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Adoption Awareness (LAC 28: CXV.2347)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*, §2347, Health Education. The revision to §2347 results from Act 571 of the 2006 Louisiana Legislative Session, which requires that adoption awareness be included in Health Education or any other course determined by BESE to be more appropriate. Adoption awareness shall include instruction on the benefits of adoption for families wishing to add a child, for potential adoptees, and for persons who are pregnant or who have a child for whom they are unable to care.

**Title 28
EDUCATION**

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

**Chapter 23. Curriculum and Instruction
§2347. Health Education**

A. The health education course offerings shall be as follows.

Course Title(s)	Units
Health Education	1/2

B. Cardiopulmonary resuscitation (CPR) shall be taught.

C. Health Education shall include instruction in adoption awareness. Adoption awareness shall include instruction on the benefits of adoption for families wishing to add a child, for potential adoptees, and for persons who are pregnant or who have a child for whom they are unable to care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:263.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:

Family Impact Statement

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

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., March 11, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

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

**RULE TITLE: Bulletin 741—Louisiana Handbook for
School Administrators—Adoption Awareness**

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

The implementation of changes requires no cost or savings to state or local governmental units. The revision to §2347 results from Act 571 of the 2006 Louisiana Legislative Session,

which requires that adoption awareness be included in Health Education or any other course determined by the Board of Elementary and Secondary Education to be more appropriate.

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

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

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

There will be no costs or economic benefits to schools or school districts.

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

There will be no effect on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
Management and Finance
0701#084

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for
Nonpublic School Administrators—Adoption Awareness
(LAC 28:LXXIX.2301)

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 Nonpublic Bulletin 741, *Louisiana Handbook for Nonpublic School Administrators*, §2301, General. The revision to §2301 results from Act 571 of the 2006 Louisiana Legislative Session, which requires that adoption awareness be required instruction in nonpublic high schools in a manner that is the sole discretion of the nonpublic high school. Adoption awareness shall include instruction on the benefits of adoption for families wishing to add a child, for potential adoptees, and for persons who are pregnant or who have a child for whom they are unable to care.

**Title 28
EDUCATION**

**Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana
Handbook for Nonpublic School Administrators
Chapter 23. High School Program of Studies
§2301. General**

A. The high school shall provide a comprehensive college preparatory and/or vocational curriculum.

B. Adoption awareness shall be required instruction in nonpublic high schools in a manner that is the sole discretion of the nonpublic high school. Adoption awareness shall include instruction on the benefits of adoption for families wishing to add a child, for potential adoptees, and for persons who are pregnant or who have a child for whom they are unable to care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17: 263; R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2353 (November 2003), amended LR 31:3085 (December 2005), LR 33:

Family Impact Statement

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

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

Interested persons may submit comments until 4:30 p.m., March 11, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators—Adoption Awareness**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The implementation of changes requires no cost or savings to state or local governmental units. The revision to §2301 results from Act 571 of the 2006 Louisiana Legislative Session, which requires that adoption awareness be required instruction in nonpublic high schools in a manner that is the sole discretion of the nonpublic high school.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to schools or school districts.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
Management and Finance
0701#087

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Educational Leader (LAC 28:CXXXI.240, 703, 705, and 707)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §240, Educational Leader Practitioner (Residency) Program, §703, Introduction, §705, Educational Leader Certificate Level 1, and §707, Educational Leader Certificate Level 2. This policy changes the type and level of the teaching certificate required to be certified as an Educational Leader Level 1 and also changes the required number of years of teaching experience from five to three years. The new policy will also allow for two new alternate paths of certification for Educational Leader Level 1 applicants. The revised policy will enhance the current educational leadership certification policy and will allow individuals to pursue certification as an educational leader through multiple standards-based, research-based pathways.

Title 28 EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel Chapter 2. Louisiana Teacher Preparation Programs §240. Educational Leader Practitioner (Residency) Program

A. State-approved private providers and Louisiana colleges or universities may choose to offer an Educational Leader Practitioner (Residency) Program for purposes of certifying successful candidates for Educational Leader Level 1 certification. Educational Leader Practitioner Program providers must submit a program proposal to the Louisiana Department of Education, Division of Certification and Preparation. Programs will be reviewed for adherence to program guidelines, and those meeting guidelines will be recommended to the Board of Elementary and Secondary Education for approval status. The Educational Leader Practitioner Program is a streamlined certification path that combines intensive coursework and practical, on-the-job experience.

1. Admission to the Program. Program providers work with local educational agency or state/district-approved charter school personnel to identify Educational Leader Practitioner Program candidates who will be employed by the local educational agency or approved charter school (hereinafter referred to as hiring authority). For admission, candidates must:

- a. possess a baccalaureate degree from an accredited university;
- b. have three years of K-12 teaching experience and demonstrate strong knowledge of instruction through a rigorous screening process by an approved program provider in partnership with one or more hiring authorities;

c. hold or be eligible to hold a valid Louisiana Type B or Level 2 teaching certificate or have a comparable level out-of-state teaching certificate;

d. meet other non-course requirements established by the approved leader practitioner program;

i. candidates will be chosen using a rigorous selection process designed to determine the potential of candidates as school leaders. The screening process for each cohort will involve a multi-phase process that includes, as a minimum, a written application, recommendations, and interviews.

2. Leader Preparation (First Summer)

a. All leader practitioner candidates will participate in an initial summer institute training that will build skills in the areas of instructional, organizational, and personal leadership. The *Standards for Educational Leaders in Louisiana* will serve as the basis of the curriculum. The summer institute will provide a balanced curriculum that includes learning opportunities grounded in practical experience, theory, and research. Topics to be addressed include but are not limited to the following: Leading with a Vision, Using Data to Lead School Improvement, Creating and Leading Effective School Teams, Building a High-Performance Learning Culture and Professional Learning Communities, and Leading and Learning with Technology. Acquired knowledge and skills will be utilized in the planning of residency experiences with a residency supervisor, who is assigned by the program provider. In addition, participants will begin developing their portfolio and Educational Leadership Development plan.

b. The summer session will include a minimum of 135 contact hours (or 9 credit hours).

3. Principal Residency and Support (School Year)

a. Candidates assume positions as administrative interns (with responsibilities equivalent to that of an Assistant Principal). The hiring authority pays the candidate's salary.

b. Interns will serve in at least two different schools, and will experience a full range of activities associated with all phases of school administration. In school experiences should provide for a minimum of 125 days in the school.

c. During the school year, candidates participate in weekly sessions provided by the program provider and in four seminars (two during the first semester and two during the second semester) that address immediate needs of the practitioner leader. Weekly sessions and seminars should provide for a minimum of 60 contact hours (or 4 credit hours).

d. Practitioner leaders receive one-on-one supervision through a residency supervisor provided by the program providers.

e. Practitioner leaders will receive support from a school-based principal mentor identified by the hiring authority and the program provider, and a principal coach provided by the program provider. Hiring authorities and providers will collaborate to identify appropriate site for placement of an intern at a school and with a strong principal who serves as the school-based mentor. Additionally, the provider identifies and trains principal coaches (e.g., former principals, retired principals) who support one or more candidates.

4. Leader Preparation (Second Summer)

a. All leader practitioner candidates will participate in a follow-up summer institute training that will continue to build skills in the areas of instructional and organizational leadership. The *Standards for Educational Leaders in Louisiana* will serve as the basis of the curriculum. The summer institute will provide a balanced curriculum that includes learning opportunities grounded in practical experience, theory, and research. Topics to be addressed include but are not limited to the following: Leading a Focused Drive toward Student Achievement, Organizing the Learning Environment, and Ethical Leadership. In addition, program participants will finalize their portfolio and Educational Leadership Development plan.

b. The summer session will include 135 contact hours (or 9 credit hours).

i. An approved program provider may choose to provide a portion of the second summer curriculum and contact hours during the first summer or academic school year.

ii. A minimum of 45 contact hours (or 3 credit hours) must be provided during the second summer.

iii. The provider must provide evidence that the curriculum topics have all been addressed and that the required contact hours/credit hours have been met by the end of the second summer.

5. Practitioner Leader Performance Review (Mid-Year and End of Program)

a. Program providers, mentor principals, and principal coaches form teams to review mid-year performance of practitioner leaders and determine the extent to which the practitioner leader has demonstrated educational leadership proficiency. If weaknesses are cited, teams will identify additional types of support to address areas of needs.

b. Program providers, mentor principals, and principal coaches form teams to review end-of-program performance of practitioner leaders and determine the extent to which the aspiring leader has demonstrated educational leadership proficiency and readiness for the Educational Leader Level 1 certification.

6. Total Hours Required. Minimum of 330 contact hours of coursework (22 credit hours) and minimum of 125 days serving as practitioner leader (administrative intern).

7. Passage of School Licensure Exam. Have a passing score on the School Leaders Licensure Assessment (SLLA) in accordance with state requirements.

8. Program requirements must be met by the end of the second summer session. For certification purposes, approved providers will submit signed statements to the Department of Education indicating that the student completing the Educational Leader Practitioner Program performance-based certification path met the following requirements:

a. passed the School Leaders Licensure Assessment;

b. completed all program coursework (summers and school year) and the residency;

c. completed prescriptive plans (if weaknesses were demonstrated);

d. demonstrate readiness for the educational leader based on performance against the *Standards for Educational*

Leaders in Louisiana and approved program provider indicators of skills needed for educational leader success;

e. completed an Educational Leadership Development plan (an individualized learning plan that outlines areas of development in each of the *Standards for Educational Leaders in Louisiana*;

f. completed a portfolio demonstrating skills needed to collaborate with teachers and use data to increase student achievement; successfully observe, evaluate, and provide feedback to teachers to improve student achievement; and lead the school or a portion of the school through a change process that helps to build a positive school community.

9. On-Going Support (Second and Third Year). Program providers will give support services to educational leaders who have completed the practitioner leader program and are serving as school leaders during their second and third years in the program. Support services are coordinated with the state-administered Louisiana Education Leaders Induction Program and include regular visits to their schools from a successful, veteran principal who provides feedback and coaching and leads regular cohort meetings.

10. Professional License. Upon completion of all requirements of the program, the candidate will receive an Educational Leader Level 1 license.

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

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

Chapter 7. Administrative and Supervisory Credentials

Subchapter A. The Educational Leadership Certification Structure—Effective July 1, 2006

§703. Introduction

A. The Educational Leadership Certification structure, effective July 1, 2006, provides for four levels of leader certification: Teacher Leader; Educational Leader Level 1; Educational Leader Level 2; and Educational Leader Level 3. The Teacher Leader Endorsement is an option for a teacher to be identified as a teacher leader; it is not a state required credential for a specific administrative position. The Educational Leader Level 1 license is an entry-level license for individuals seeking to qualify for school and/or district leadership positions (e.g., assistant principals, principals, parish or city supervisors of instruction, supervisors of child welfare and attendance, special education supervisors, or comparable school/district leader positions). An individual moves from a Level 1 to a Level 2 license upon completion of the Educational Leader Induction Program and the required years of experience. The Level 3 license qualifies an individual for employment as a district superintendent.

B. Educational leadership preparation programs, induction programs, and continuing learning units required for re-licensure are aligned with the following state and national standards:

1. Standards for Educational Leaders in Louisiana;
2. Interstate School Leaders License Consortium [ISLLC] Standards for School Leaders; and
3. Educational Leadership Constituent Council [ELCC] Standards for Advanced Programs in Educational Leadership, the standards used by the National Council for

the Accreditation of Colleges of Teachers Evaluation [NCATE] for university program reviews.

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

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

§705. Educational Leader Certificate Level 1

A. This is the certification authorization needed by those who fill school and district educational leadership positions (e.g., assistant principal, principal, parish or city supervisor of instruction, supervisor of child welfare and attendance, special education supervisor, or comparable school/district leader positions). This endorsement is valid for five years and is renewable every five years based upon successful completion and verification of required continuing learning units. An Educational Leader Certificate Level 1 may be obtained through either a master's degree path or through an alternate path.

1. Master's Degree Path. To receive an entry-level certificate in educational leadership, the candidate must:

a. hold or be eligible to hold a valid Louisiana Type B or Level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience in his/her area of certification;

b. complete a competency-based graduate degree preparation program in the area of educational leadership from a regionally accredited institution of higher education; and

c. have a passing score on the School Leaders Licensure Assessment (SLLA), in accordance with state requirements.

2. Alternate Path 1. Three alternate paths are available to individuals seeking an Educational Leader Certificate Level 1. The Alternate Path 1 is for persons who already hold a master's degree and are seeking to add Educational Leader certification to a valid teaching certificate:

a. hold or be eligible to hold a valid Louisiana Type B or Level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience in his/her area of certification;

b. have previously completed a graduate degree program from a regionally accredited institution of higher education;

c. meet competency-based requirements, as demonstrated by completion of an individualized program of educational leadership from a regionally accredited institution of higher education. An individualized program will be developed based on a screening of each candidate's competencies upon entering into the graduate alternative certification program; and

d. have a passing score on the School Leaders Licensure Assessment (SLLA) in accordance with state requirements.

3. Alternate Path 2. Three alternate paths are available to individuals seeking an Educational Leader Certificate Level 1. The Alternate Path 2 is for persons who already hold a master's degree in education and are seeking to add Educational Leader certification to a valid teaching certificate:

a. hold or be eligible to hold a valid Louisiana Type B or Level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience in his/her area of certification;

b. have previously completed a graduate degree program in education from a regionally accredited institution of higher education;

c. provide documented evidence of leadership experiences (240 clock hours or more) at the school and/or district level; and

d. have a passing score on the School Leaders Licensure Assessment (SLLA) in accordance with state requirements.

4. Alternate Path 3. Three alternate paths are available to individuals seeking an Educational Leader Certificate Level 1. The Alternate Path 3 is for persons who already hold a baccalaureate degree from a regionally accredited institution of higher education and are seeking to add Educational Leader certification to a valid teaching certificate through a competency-based educational leader practitioner (residency) program (See Chapter 2, §240):

a. hold or be eligible to hold a valid Louisiana Type B or Level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience in his/her area of certification;

b. demonstrate strong knowledge of instruction through a rigorous screening process by an approved program provider;

c. complete a competency-based educational leader practitioner/residency preparation program in the area of educational leadership from a state-approved private provider or a regionally accredited institution of higher education; and

d. have a passing score on the School Leaders Licensure Assessment (SLLA) in accordance with state requirements.

5. Renewal Requirements. For purposes of maintaining a valid endorsement, holders of an Educational Leader Level 1 endorsement are required to complete 150 continuing learning units of professional development consistent with the Individual Professional Growth Plan (IPGP) over a five-year time period. The starting date of the five-year cycle depends on the type of teaching certificate that the individual holds.

a. If an individual holds a Louisiana Professional Teaching Certificate Level 2, then the renewal date is tied to the renewal date on the professional teaching certificate.

b. If an individual holds a Louisiana Type B Teaching Certificate or a comparable level out-of-state teaching certificate, then the renewal time period begins with the date of issue of the Educational Leader Level 1 endorsement.

6. Upon employment as a school/district educational leader, an individual with an Educational Leader Level 1 endorsement must enroll in the state-approved Educational Leader Induction Program under the direction of the Louisiana Department of Education. Once employed as a school/district educational leader, the individual has three years to complete the induction program.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1823 (October 2006), amended LR 33:

§707. Educational Leader Certificate Level 2

A. This endorsement is valid for five years and is renewable every five years based upon successful completion and verification of required continuing learning units.

1. To receive an Educational Leader Certificate Level 2, the individual must:

a. hold a valid Level 1 Educational Leader certificate, Louisiana provisional principal certification, or comparable level out-of-state educational leader certificate;

b. have three years of teaching experience in his/her area(s) of certification;

c. have completed the Educational Leader Induction Program under the administration of the Louisiana Department of Education:

i. the induction period begins upon the candidate's first full-time administrative appointment (permanent or acting) as an assistant principal, principal, parish or city supervisor of instruction, supervisor of child welfare and attendance, or comparable school/district leader position;

ii. the Educational Leader Induction Program must be completed within a three-year period;

d. have three years of educational leadership experience at the level of assistant principal or above.

2. Renewal Requirements. For purposes of maintaining a valid endorsement, holders of an Educational Leader Level 2 endorsement are required to complete 150 continuing learning units of professional development consistent with the Individual Professional Growth Plan (IPGP) over a five-year time period. The starting date of the five-year cycle depends on the type of teaching certificate that the individual holds.

a. If an individual holds a Louisiana Professional Teaching Certificate Level 2, then the renewal date is tied to the renewal date on the professional teaching certificate.

b. If an individual does not hold a Louisiana Professional Teaching Certificate Level 2, but does hold an Educational Leader Level 1 endorsement, then the renewal date is tied to the renewal date on the Educational Leader Level 1 endorsement.

c. If an individual holds neither a Louisiana Professional Teaching Certificate Level 2 nor an Educational Leader Level 1 endorsement, then the renewal time period begins with the date of issue of the Educational Leader Level 2 endorsement.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1823 (October 2006), amended LR 33:

Family Impact Statement

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

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

Interested persons may submit comments until 4:30 p.m., March 11, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

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

**RULE TITLE: Louisiana Standards for State
Certification of School Personnel—Educational Leader**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This policy changes the type and level of the teaching certificate required to be certified as an Educational Leader Level 1, and also changes the required number of years of teaching experience from five to three years. The new policy will also allow for two new alternate paths of certification for Educational Leader Level 1 applicants. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This policy will have no effect on competition and employment.

Beth Scioneaux
Acting Deputy Director
0701#086

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Special Education Program Deadline Extension (LAC 28:CXXXI.225 and 231)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana*

Standards for State Certification of School Personnel, §225. Minimum Requirements for Approved Early Interventionist Special Education Birth to Five Years Program, and §231. Introduction. This policy extends the deadline date from January 1, 2007, to July 1, 2007, for special education programs in Early Interventionist Special Education Birth to Five Years, Significant Disabilities, Hearing Impaired, and Visually Impaired. This extension will allow campuses to continue offering their existing special education programs during spring 2007. This extension will provide students additional time to complete the special education programs currently in place. This policy change is requested so that university programs in special education areas can be reviewed for approval.

Title 28

EDUCATION

**Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel
Chapter 2. Louisiana Teacher Preparation Programs
Subchapter A. Traditional Teacher Preparation Programs**

§225. Minimum Requirements for Approved Early Interventionist Special Education Birth to Five Years Program: Adopted November 18, 2004; Effective July 1, 2007

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1789 (October 2006), amended LR 33:

**Subchapter B. Alternate Teacher Preparation Programs
§231. Introduction**

A. - D. ...

1. July 1, 2007—last date for candidates to be accepted into Post-Baccalaureate Programs.

2. August 31, 2010—last date for candidates who are already in Post-Baccalaureate Programs to complete those programs.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1790 (October 2006), amended LR 33:

Family Impact Statement

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

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit comments until 4:30 p.m., March 11, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 746—Louisiana Standards for State Certification of School Personnel—Special Education Program Deadline Extension**

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

This policy extends the deadline date from January 1, 2007 to July 1, 2007 for special education programs in Early Interventionist Special Education Birth to Five Years, Significant Disabilities, Hearing Impaired, and Visually Impaired. This extension will allow campuses to continue offering their existing special education programs during spring 2007. This extension will provide students additional time to complete the special education programs currently in place. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
Management and Finance
0701#085

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

CAIR NO_x Trading Programs (LAC 33:III.506) (AQ261)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.506 (Log #AQ261).

The Clean Air Interstate Rule (CAIR) was promulgated by the U.S. Environmental Protection Agency on May 12, 2005. This federal rule addresses ozone and fine particulate air

pollution by regulating emissions of sulfur dioxide (SO₂) and nitrogen oxides (NO_x) from electrical generating units (EGUs) in certain states and the District of Columbia. The federal rule establishes a budget cap for each state for emissions of these pollutants and allows for emissions trading. Following promulgation of CAIR in 2005, EPA promulgated a Federal Implementation Plan (FIP) for the rule on April 28, 2006. The FIP, which became effective on June 27, 2006, includes the federal method for allocation of NO_x allowances. The FIP provides states with an option to submit an abbreviated SIP and limited flexibility in implementation of certain federal rule provisions related to CAIR. Louisiana will remain under the provisions of the FIP for the Annual NO_x and Ozone Season NO_x Trading Programs with the exception of the provisions established in this proposed rule.

This proposed rule defines the state's method under the CAIR Annual and Ozone Season NO_x Trading Programs for allocating NO_x allowances to EGUs subject to CAIR. Section 51.123 of the federal CAIR allows states some flexibility in implementation of certain rule provisions related to methods for allocating NO_x allowances. The proposed rule establishes state provisions in lieu of 40 CFR 97, Subpart EE - CAIR NO_x Allowance Allocations, §97.141 and §97.142, and 40 CFR 97, Subpart EEEE - CAIR NO_x Ozone Season Allowance Allocations, §97.341 and §97.342. To determine the impact of CAIR implementation on Louisiana electricity ratepayers, DEQ requested assistance from the Louisiana Public Service Commission (LPSC). Pursuant to this request, the LPSC contracted the service of the Louisiana State University Center of Energy Studies. Recommendations concerning the implementation of CAIR in Louisiana were provided to DEQ from the LPSC in a staff paper and supplement. These rule provisions are consistent with the LPSC recommendations. Once promulgated, this rule will be submitted to EPA as a revision to the air quality SIP for Louisiana. The submittal of an approvable abbreviated SIP revision for the CAIR Annual and Ozone Season NO_x Trading Programs satisfies Louisiana's obligations under Section 110(a)(2)(D)(i) of the Clean Air Act (CAA). This rule is also being proposed as a revision to the Louisiana State Implementation Plan for air quality. The basis and rationale for this proposed rule are to improve air quality through a reduction of intrastate and interstate emissions of NO_x from EGUs subject to CAIR.

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

Title 33 ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§506. Clean Air Interstate Rule Requirements

A. Clean Air Interstate Rule (CAIR) Annual Nitrogen Oxide (NO_x) Program. This Subsection is adopted in lieu of 40 CFR 97.141 and 97.142 as promulgated under the CAIR Federal Implementation Plan (FIP) NO_x Annual Trading Program on April 28, 2006, at 71 FR 25328. All provisions of 40 CFR Part 97, Subparts AA – HH, continue to apply,

with the exception of §97.141 (Timing Requirements for CAIR NO_x Allowance Allocations) and §97.142 (CAIR NO_x Allowance Allocations). The provisions of this Subsection state how the CAIR NO_x annual allowances will be allocated in accordance with this Section and 40 CFR 97.144(a).

1. Definitions. The terms used in Subsection A of this Section have the meaning given to them in the CAIR FIP (as promulgated on April 28, 2006), except for those terms defined herein as follows.

Department—the Louisiana Department of Environmental Quality.

Independent Power Producer—the owner or operator of any electricity-generating facility who sells electricity to a utility company.

LPSC—the Louisiana Public Service Commission.

LPSC Certification—the process under which an electricity-generating facility and/or all of its component units, additions, and up-rated or re-powered units are certified by the Louisiana Public Service Commission (LPSC) as being in the public convenience and necessity. This process includes the certification of long-term contracts that dedicate a portion of the electrical output of any generation facility to a LPSC regulated utility. Long-term contracts include contracts of at least one year in duration, provided that the utility expects to receive power under the contract within one year of the contract execution.

LPSC Certified Unit—a unit that has been certified by the LPSC but is not yet in operation.

LPSC Non-Regulated Facility—any electricity-generating facility not regulated by the LPSC.

LPSC Regulated Unit—a unit regulated by the LPSC that is in operation.

2. Allocation of CAIR Annual NO_x Allowances. Total NO_x allowances allocated per control period shall not be in excess of the CAIR annual NO_x budget as found in 40 CFR 97.140 (35,512 tons per control period from 2009-2014 and 29,593 tons per control period thereafter).

a. Independent Power Producers (IPP) or Cogeneration. For IPP and cogeneration units, the NO_x allowances shall be equal to the average NO_x emissions of the three years immediately preceding the year in which the control period allocations are made. The actual NO_x emissions during normal operations as reported in the emission inventory required by LAC 33:III.919 shall be used, except that the allowances submitted in 2007 shall use the actual NO_x emissions for calendar years 2002, 2003, and 2004 that were reported to the Federal Acid Rain Program. If three years of operating data do not exist, the average of the last two years of reported NO_x emissions shall be used. If only one year of operating data exist, the NO_x allowances shall be equal to that year's actual reported NO_x emissions.

b. LPSC Certified Unit. A LPSC certified unit shall be allocated allowances for the control period in which the unit will begin operation if the allowances for that control period have not been previously allocated. Until a unit has three years of operating data preceding the allocation submittal deadline, the converted heat input as calculated in Clause A.2.b.i or ii of this Section shall be used to allocate allowances for the unit. The LPSC certified unit shall be treated as a LPSC regulated unit for the purposes of this allocation, except that converted heat input shall be used

instead of adjusted heat input. Converted heat input is calculated as follows.

i. For a coal-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output of the generator(s) served by the unit multiplied by 7,900 Btu/kWh and divided by 1,000,000 Btu/mmBtu. The control period gross electrical output as stated in the documentation presented to the LPSC during the certification process shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the year.

ii. For a non-coal-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output of the generator(s) served by the unit multiplied by 6,675 Btu/kWh and divided by 1,000,000 Btu/mmBtu. The control period gross electrical output as stated in the documentation presented to the LPSC during the certification process shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the year.

c. LPSC Regulated Unit. The department shall allocate CAIR NO_x allowances to each LPSC regulated CAIR unit by multiplying the CAIR NO_x budget, minus the allowances allocated under Subparagraph A.2.a of this Section, by the ratio of the adjusted baseline heat input of the LPSC regulated CAIR NO_x unit to the total amount of adjusted baseline heat input of all LPSC regulated CAIR NO_x units in the state and rounding to the nearest whole allowance. The adjusted heat input (in mmBTU) used with respect to the CAIR annual NO_x allowance for each LPSC regulated CAIR NO_x unit shall be established as follows.

i. The average of the unit's control period adjusted heat input for the three calendar years immediately preceding the deadline for submission of allocations to the administrator shall be used (except that the allocation submitted in 2007 shall use the average of the control period adjusted heat input for calendar years 2002, 2003, and 2004), with the control period adjusted heat input for each year calculated as follows.

(a). If the unit is coal-fired during a year, the unit's control period heat input for that year shall be multiplied by 100 percent.

(b). If the unit is oil-fired during a year, the unit's control period heat input for that year shall be multiplied by 60 percent.

(c). If the unit is not subject to Subclause A.2.c.i.(a) or (b) of this Section, the unit's control period heat input for the year shall be multiplied by 40 percent.

ii. A unit's control period heat input, status as coal-fired or oil-fired, and total tons of NO_x emissions during a calendar year shall be determined in accordance with 40 CFR Part 75 and reported in accordance with LAC 33:III.919, to the extent the unit was subject to the requirements of 40 CFR Part 75 for the year, or shall be based on the best available data reported to the department for the unit, to the extent the unit was not subject to the requirements of 40 CFR Part 75 for the year.

3. Timing Requirements for CAIR Annual NO_x Allowance Allocations

a. By April 30, 2007, the department shall submit to the administrator the CAIR annual NO_x allowance allocations, in a format prescribed by the administrator and in accordance with Paragraph A.2 of this Section, for the control periods in 2009, 2010, and 2011.

b. By October 31, 2008, for the year 2012, and by October 31 of each year thereafter, the department shall submit to the administrator CAIR annual NO_x allowance allocations, in a format prescribed by the administrator and in accordance with Paragraph A.2 of this Section, for the control period in the fourth year after the year of the applicable deadline for submission under this Section.

B. Clean Air Interstate Rule (CAIR) Nitrogen Oxide (NO_x) Ozone Season Program. This Subsection is adopted in lieu of 40 CFR 97.341 and 97.342 as promulgated under the CAIR Federal Implementation Plan (FIP) NO_x Ozone Season Trading Program on April 28, 2006, at 71 FR 25328. All provisions of 40 CFR Part 97, Subparts AAAA – HHHH, continue to apply, with the exception of §97.341 (Timing Requirements for CAIR NO_x Ozone Season Allowance Allocations) and §97.342 (CAIR NO_x Ozone Season Allowance Allocations). The provisions of this subsection state how the CAIR NO_x ozone season allowances will be allocated in accordance with this Section and 40 CFR 97.344(a).

1. Definitions. The terms used in Subsection B of this Section have the meaning given to them in the CAIR FIP (as promulgated on April 28, 2006), except for those terms defined herein as follows.

Department—the Louisiana Department of Environmental Quality.

Independent Power Producer—the owner or operator of any electricity-generating facility who sells electricity to a utility company.

LPSC—the Louisiana Public Service Commission.

LPSC Certification—the process under which an electricity-generating facility and/or all of its component units, additions, and up-rated or re-powered units are certified by the Louisiana Public Service Commission (LPSC) as being in the public convenience and necessity. This process includes the certification of long-term contracts that dedicate a portion of the electrical output of any generation facility to a LPSC regulated utility. Long-term contracts include contracts of at least one year in duration, provided that the utility expects to receive power under the contract within one year of the contract execution.

LPSC Certified Unit—a unit that has been certified by the LPSC but is not yet in operation.

LPSC Non-Regulated Facility—any electricity-generating facility not regulated by the LPSC.

LPSC Regulated Unit—a unit regulated by the LPSC that is in operation.

2. Allocation of CAIR Ozone Season NO_x Allowances. Total NO_x ozone season allowances allocated per control period shall not be in excess of the CAIR ozone season NO_x budget as found in 40 CFR 97.340 (17,085 tons per control period from 2009-2014 and 14,238 tons per control period thereafter).

a. Independent Power Producers (IPP) or Cogeneration. For IPP and cogeneration units, the ozone

season NO_x allowances shall be equal to the average ozone season NO_x emissions of the three years immediately preceding the year in which the control period allocations are made. The actual ozone season NO_x emissions during normal business operations as reported in the emission inventory required by LAC 33:III.919 shall be used, except that the ozone season allowances submitted in 2007 shall use the actual ozone season NO_x emissions for calendar years 2002, 2003, and 2004 that were reported to the Federal Acid Rain Program. If three years of operating data do not exist, the average of the last two years of reported ozone season NO_x emissions shall be used. If only one year of operating data exist, the ozone season NO_x allowances shall be equal to that year's actual reported ozone season NO_x emissions.

b. LPSC Certified Unit. A LPSC certified unit shall be allocated allowances for the ozone season control period in which the unit will begin operation if the allowances for that ozone season control period have not been previously allocated. Until a unit has three years of ozone season operating data preceding the allocation submittal deadline, the converted heat input as calculated in Clause B.2.b.i or ii of this Section shall be used to allocate ozone season allowances for the unit. The LPSC certified unit shall be treated as a LPSC regulated unit for purposes of this allocation, except that ozone season converted heat input will be used instead of ozone season adjusted heat input. Ozone season converted heat input is calculated as follows.

i. For a coal-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output of the generator(s) served by the unit multiplied by 7,900 Btu/kWh and divided by 1,000,000 Btu/mmBtu. The control period gross electrical output as stated in the documentation presented to the LPSC during the certification process shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the year.

ii. For a non-coal-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output of the generator(s) served by the unit multiplied by 6,675 Btu/kWh and divided by 1,000,000 Btu/mmBtu. The control period gross electrical output as stated in the documentation presented to the LPSC during the certification process shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the year.

c. LPSC Regulated Unit. The department shall allocate CAIR ozone season NO_x allowances to each LPSC regulated CAIR unit by multiplying the CAIR ozone season NO_x budget, minus the allowances allocated under Subparagraph A.2.a of this Section, by the ratio of the ozone season adjusted baseline heat input of the LPSC regulated CAIR ozone season NO_x unit to the total amount of ozone season adjusted baseline heat input of all LPSC regulated CAIR ozone season NO_x units in the state and rounding to the nearest whole allowance. The ozone season adjusted heat input (in mmBTU) used with respect to the CAIR ozone season NO_x allowance for each LPSC regulated CAIR ozone season NO_x unit shall be established as follows.

i. The average of the unit's control period ozone season adjusted heat input for the three calendar years immediately preceding the deadline for submission of allocations to the administrator shall be used (except that the allocation submitted in 2007 shall use the average of the control period ozone season adjusted heat input for calendar years 2002, 2003, and 2004), with the control period ozone season adjusted heat input for each year calculated as follows.

(a). If the unit is coal-fired during a year, the unit's control period ozone season heat input for that year shall be multiplied by 100 percent.

(b). If the unit is oil-fired during a year, the unit's control period ozone season heat input for that year shall be multiplied by 60 percent.

(c). If the unit is not subject to Subclause B.2.c.i.(a) or (b) of this Section, the unit's control period ozone season heat input for the year shall be multiplied by 40 percent.

ii. A unit's control period ozone season heat input, status as coal-fired or oil-fired, and total tons of ozone season NO_x emissions during a calendar year shall be determined in accordance with 40 CFR Part 75 and reported in accordance with LAC 33:III.919, to the extent the unit was subject to the requirements of 40 CFR Part 75 for the year, or shall be based on the best available data reported to the department for the unit, to the extent the unit was not subject to the requirements of 40 CFR Part 75 for the year.

3. Timing Requirements for CAIR Ozone Season NO_x Allowance Allocations

a. By April 30, 2007, the department shall submit to the administrator the CAIR ozone season NO_x allowance allocations, in a format prescribed by the administrator and in accordance with Paragraph B.2 of this Section, for the control periods in 2009, 2010, and 2011.

b. By October 31, 2008, for the year 2012, and by October 31 of each year thereafter, the department shall submit to the administrator the CAIR ozone season NO_x allowance allocations, in a format prescribed by the administrator and in accordance with Paragraph B.2 of this Section, for the control period in the fourth year after the year of the applicable deadline for submission under this Section.

C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:1597 (September 2006), amended LR 33:

A public hearing will be held on February 27, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. The hearing will also be for the revision to the State Implementation Plan (SIP) to incorporate this proposed rule. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ261. Such

comments must be received no later than March 6, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ261. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: CAIR NO_x Trading Programs

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

Implementation costs or savings are expected to be minimal from promulgation of this rule, which is designed only to alter the allocation methodology of the Clean Air Interstate Rule (CAIR) federal implementation plan (FIP) for new nitrogen oxide (NO_x) trading programs. However, because of the overall federal rule, local governments that own municipal electrical generating units (EGUs) may incur increased costs to comply with the federal CAIR from purchasing emission allowances needed to operate. State and local governmental units as electrical ratepayers may incur additional minimal costs for electricity.

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

Impact on revenue collections is estimated to be nil for state or local governmental units that do not own EGUs subject to the federal rule. Impact on revenue collections of local governmental units owning municipal EGUs is expected to be minimal. These local governmental units may pass costs or savings on to their electrical ratepayers.

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

Implementation of this proposed rule is estimated to increase the average ratepayer's annual electrical cost by \$10.11, as opposed to an increase of \$10.80 per year under implementation of the federal CAIR.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the allowance allocation method in this proposed rule will gradually cause a change in electrical production from older gas-fired units to newer, more efficient coal-fired facilities. This may result in a negative impact on employment for workers at gas-fired EGUs. However, new employment opportunities may arise from the operation of new or replacement EGUs.

Herman Robinson, CPM
Executive Counsel
0701#058

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Lead-Based Paint Activities
(LAC 33:III.2805, 2807, 2809, 2811, and 2813) (AQ262)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.2805, 2807, 2809, 2811, and 2813 (Log #AQ262).

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

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

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 28. Lead-Based Paint

Activities—Recognition, Accreditation, Licensure, and Standards for Conducting Lead-Based Paint Activities

§2805. Recognition and Standards for Training Providers

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

recognition for itself and its courses from the department, the following procedures shall be followed.

A.1. - B.4.a. ...

b. résumés, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements; and

c. certificates from train-the-trainer courses, lead-specific training courses, and accreditations, as evidence of meeting the training requirements;

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

6. - 6.d....

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

7. - 9. ...

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

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

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

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

B.15. - E. ...

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

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

3. ...

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

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

a. the name of the training course to be taught;

b. the dates and length of the training course;

c. the principal/guest instructors that will be teaching the course;

d. the name and telephone number of the training manager; and

e. the location where the course will be taught; and

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

F. - G.4. ...

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

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

Protection, Air Quality Division, LR 23:1666 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2337 (November 2002), amended by the Office of Environmental Assessment, LR 30:2804 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2445 (October 2005), LR 33:

§2807. Accreditation of Individuals

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

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

3. ...

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

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

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

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

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

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

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

E. - E.2. ...

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

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

§2809. Licensure of Lead Contractors

A. Licensure Requirements

1. In order to bid and/or perform abatement activities, lead contractors must obtain a lead-based paint abatement and removal license from the State of Louisiana Licensing Board for Contractors. Prior to obtaining an initial or renewal license, the lead contractor must submit an application for approval, along with the appropriate fees as required in LAC 33:III.223, to the Office of Environmental

Services, Air Permits Division, and certify to the department that the following criteria have been, or will be, met.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. - E.4. ...

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

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

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

4.d. - 13. ...

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

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

§2813. Recordkeeping Requirements for Lead-Based Paint Activities

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1676 (December 1997), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on February 27, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ262. Such comments must be received no later than March 6, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ262. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Lead-Based Paint Activities

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

There will be no implementation costs to state or local governmental units.

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

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

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

Lead-based paint contractors will benefit from the department omitting the requirement to retake the lead exam every three years. The proposed change will require an initial exam only. No additional costs of any kind will result from the proposed amendment. There will be no effect on revenue collections for lead training providers and trainers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Herman Robinson, CPM
Executive Counsel
0701#059

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Miscellaneous Corrections
(LAC 33:XV.322, 399.Schedule B, and 607) (RP043ft)

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.322, 399.Schedule B, and 607 (Log #RP043ft).

This proposed rule is identical to federal regulations found in 10 CFR 31.5, and SSRCR, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule will update the state radiation protection regulations to more closely reflect federal language. LAC 33:XV.322 is being updated to meet a compatibility designation under the agreement state programs. A footnote in Schedule B of LAC 33:XV.399 was inadvertently left out in previous rulemaking and is being corrected in this rule. LAC 33:XV.607 is being updated to more closely reflect current instrumentation used in intraoral dental radiographic systems. The reference to an "open ended" PID (position-indicating device) is removed. The Conference of Radiation Control Program Directors (CRCPD) removed this requirement from the Suggested State Regulations in 1984. The basis and rationale for this proposed rule are to mirror federal regulations and to correct language in the radiation regulations to reflect current practices pertaining to instrumentation used in intraoral dental radiographic systems.

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

**Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection**

Chapter 3. Licensing of Radioactive Material

Subchapter C. General Licenses

§322. General Licenses: Radioactive Material Other Than Source Material

A. - D.3.f. ...

g. except as provided in Subparagraph D.3.h of this Section, transfer or dispose of the device containing radioactive material only by export as provided in 10 CFR Part 110 or by transfer to a specific licensee of the department, the U.S. Nuclear Regulatory Commission, or any other agreement state or licensing state whose specific license authorizes him or her to receive the device and, within 30 days after transfer of a device to a specific licensee, except when the device is transferred to the specific

licensee in order to obtain a replacement device, shall furnish to the Office of Environmental Compliance, Emergency and Radiological Services Division, a report containing:

- i. identification of the device by the manufacturer's name, model number, and serial number, or by the initial transferor's name;
- ii. the name, address, and license number of the person receiving the device; and
- iii. the date of the transfer;

h. ...

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 (or the initial transferor's) name; the model number and serial number of the device transferred; the name, mailing address for the location of use, and license number of the transferee; the date of the transfer; and the name and/or position of an individual who may constitute a point of contact between the department and the transferee; or

h.ii. - n. ...

4. The general license in LAC 33:XV.322.D.1 does not authorize the manufacture or import of devices containing radioactive material.

D.5. - 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 32:811 (May 2006), LR 33:

Subchapter Z. Appendices

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

Schedule A. - Schedule B. ...

Footnotes to Schedule B

Note 1: For purposes of subdivision where a combination of radionuclides is involved, the limit for the combination shall be derived as follows: For each radionuclide, determine the amount possessed, and 1,000 times the amount given in Schedule B for that radionuclide. The sum of the ratios of these two quantities, for all the combinations involved, may not exceed 1.

Example:

$$\frac{\text{Amt. of Radionuclide A possessed}}{1000 \times \text{Schedule B quantity for Radionuclide A}} + \frac{\text{Amt. of Radionuclide B possessed}}{1000 \times \text{Schedule B quantity for Radionuclide B}} \leq 1$$

Note 2: To convert microcuries (µCi) to SI units of kilobecquerels (kBq), multiply the values given in Schedule B by 37.

Example:

$$\text{Zirconium-97} (10 \mu\text{Ci} \times 37 = 370 \text{ kBq})$$

Appendix A. - 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 32:820 (May 2006), LR 32:1853 (October 2006), LR 33:

Chapter 6. X-Rays in the Healing Arts
§607. Intraoral Dental Radiographic Systems

A. - A.2.a. ...

b. a shielded PID (position-indicating device) shall be used. The shielding shall be equivalent to the requirements of LAC 33:XV.604.A.3; and

2.c. - 8.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), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on February 27, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP043ft. Such comments must be received no later than February 27, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP043ft. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

Herman Robinson, CPM
Executive Counsel

0701#061

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Syngenta Crop Protection Delisting Petition
(LAC 33:V.4999.Appendix E)(HW094P)

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.4999.Appendix E (Log #HW094P).

Syngenta Crop Protection, Inc., is petitioning to exclude from hazardous waste regulations (delist) ash and scrubber water, derived from on-site incineration of listed hazardous wastes from crop protection product production and product distribution. The delisting program is regulated by LAC 33:V.105, which includes a formal rulemaking process. The applicants who wish to remove a waste from the list of hazardous wastes must submit a petition and satisfy all requirements of LAC 33:V.105. The exclusion, if granted, applies only to incinerator ash and incinerator scrubber water resulting from incineration conducted at Syngenta's St. Gabriel facility. The department has reviewed Syngenta's petition and found it satisfies the delisting requirements. The department used the Delisting Risk Assessment Software (DRAS) in the evaluation of the impact of the petitioned waste on human health and the environment.

Syngenta operates a multi-purpose incinerator (MPI). The MPI is permitted for the incineration of hazardous waste. Incinerator ash and scrubber water are generated following the incineration of hazardous and nonhazardous waste. Syngenta's wastes include EPA hazardous waste codes F001-F005 and F024, K157-K159, and all P and U codes. Syngenta's choice of conditional delisting is based on the operational merits of incineration as a waste management option. Incinerator ash and scrubber water do not contain detectable concentrations of organic constituents. Based on the information submitted by Syngenta, the results of the analytical data, and the results from the DRAS, there was no obvious adverse effect on human health or the environment. The basis and rationale for this proposed rule are to grant the petition on an evaluation of waste-specific information provided by the petitioner.

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 49. Lists of Hazardous Wastes

§4999. Appendices—Appendix A, B, C, D, and E

Appendix E. Wastes Excluded under LAC 33:V.105.M

A. - B.3.b. ...

Table 1 - Wastes Excluded
[See Prior Text in Dupont Dow Elastomers, LLC, Laplace, LA - Motiva Enterprises, LLC., Norco, LA, (4)(B)]

Table 1 - Wastes Excluded
Syngenta Crop Protection, Inc., St. Gabriel, LA
Incinerator ash, at a maximum annual generation rate of 3,600 cubic yards per year, and incinerator scrubber water, at a maximum annual generation rate of 420,000 cubic yards per year (approximately 85 million gallons per year), result from incineration at the Syngenta Crop Protection, Inc., facility in St. Gabriel, Louisiana. Syngenta's waste stream includes the United States Environmental Protection Agency (USEPA) hazardous waste codes F001-F005, F024, K157-K159, and all P and U codes. The constituents of concern for these waste codes are listed in LAC 33:V.4901. This exclusion applies only to incinerator ash and incinerator scrubber water resulting from incineration conducted at Syngenta's St. Gabriel facility. Syngenta must implement a testing and management program that meets the following conditions for the exclusion to be valid.
(1). Testing Sample collection and analyses, including quality control (QC) procedures, must be performed according to methods described in <i>Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods, EPA Publication Number SW-846</i> , as incorporated by reference in LAC 33:V.110.
(1)(A). Inorganic Testing During the first 12 consecutive months of this exclusion, Syngenta must collect and analyze one monthly composite sample of the incinerator ash and two grab samples of the scrubber water. Composite samples of incinerator ash must be composed of one grab sample from each of two different days during a representative week of operation. The grab samples of scrubber water must be collected on two different days during a representative week of operation. The monthly samples must be analyzed for the constituents listed in condition (3)(A) prior to disposal of the source incinerator ash and scrubber water. Syngenta must report to the department the unit operating conditions and analytical data (reported in milligrams per liter), including quality control information. If the department and Syngenta concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(A), Syngenta may replace the inorganic testing required in condition (1)(A) with the inorganic testing required in condition (1)(B). Condition (1)(A) shall remain effective until this concurrence is reached.
(1)(B). Subsequent Inorganic Testing After concurrence by the department, Syngenta may substitute the following testing conditions for those in condition (1)(A). Syngenta must continue to monitor operating conditions and analyze quarterly samples representative of normal operations. Syngenta must report to the department the unit operating conditions and analytical data (reported in milligrams per liter), including quality control information. Composite samples of incinerator ash must be composed of one grab sample from each of two different days during a representative week of operation, during the first month of each quarterly period. The grab samples of scrubber water must be collected on two different days during a representative week of operation, during the first month of each quarterly period. These quarterly representative samples of incinerator ash and scrubber water must be analyzed for the constituents listed in condition (3)(A) prior to disposal of the source incinerator ash and scrubber water. If delisting levels for any inorganic constituents listed in condition (3)(A) are exceeded in any quarterly sample, Syngenta must re-institute testing as required in condition (1)(A). Syngenta may, at its discretion, analyze incinerator ash composite samples or scrubber water grab samples gathered more frequently than quarterly to demonstrate that smaller batches of waste are nonhazardous.

Table 1 - Wastes Excluded
Syngenta Crop Protection, Inc., St. Gabriel, LA
(1)(C). Organic Testing During the first 12 consecutive months of this exclusion, Syngenta must collect and analyze monthly one grab sample of incinerator ash and one grab sample of scrubber water. These monthly representative grab samples must be analyzed for the constituents listed in condition (3)(B) prior to disposal of the source incinerator ash and scrubber water. Syngenta must report to the department the incinerator operating conditions and analytical data (reported in milligrams per liter), including quality control information. If the department and Syngenta concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(B), Syngenta may replace the organic testing required in condition (1)(C) with the organic testing required in condition (1)(D). Condition (1)(C) shall remain effective until this concurrence is reached.
(1)(D). Subsequent Organic Testing After concurrence by the department, Syngenta may substitute the following testing conditions for those in condition (1)(C). Syngenta must continue to monitor operating conditions and analyze one quarterly grab sample of incinerator ash and one quarterly grab sample of scrubber water representative of normal operations. Syngenta must report to the department the unit operating conditions and analytical data (reported in milligrams per liter), including quality control information. These quarterly representative grab samples of incinerator ash and scrubber water must be collected during the first month of each quarterly period and analyzed for the constituents listed in condition (3)(B) prior to disposal of the source incinerator ash and scrubber water. If delisting levels for any organic constituents listed in condition (3)(B) are exceeded in the quarterly sample, Syngenta must re-institute testing as required in condition (1)(C). Syngenta may, at its discretion, analyze incinerator ash composite samples or scrubber water grab samples gathered more frequently than quarterly to demonstrate that smaller batches of waste are nonhazardous.
(2). Waste Holding and Handling Syngenta must treat the incinerator ash and scrubber water as hazardous wastes until the verification testing is completed, as specified in conditions (1)(A) - (1)(D), and the incinerator ash and scrubber water have satisfied the delisting criteria, as specified in condition (3). If the levels of constituents in the samples of incinerator ash and scrubber water are below all of the applicable levels set forth in condition (3), then the incinerator ash and scrubber water thereby become nonhazardous solid wastes and may be managed and disposed of in accordance with all applicable solid waste regulations. If hazardous constituent levels in any monthly composite or other representative sample equal or exceed any of the delisting levels set in condition (3), the incinerator ash and scrubber water must be managed and disposed of in accordance with Subtitle C of RCRA until the incinerator ash and scrubber water meet the delisting levels. Syngenta must repeat the analyses for the constituents listed in conditions (3)(A) and (3)(B) prior to disposal.
(3). Delisting Levels Concentrations in conditions (3)(A) and (3)(B) must be measured in an extract from the waste samples by the method specified in LAC 33:V.4903.E. All leachable concentrations in the waste extract must be less than the following levels (all units are milligrams per liter).
(3)(A). Inorganic Constituents (all units are milligram per liter) antimony—0.15; arsenic—0.50; barium—39.0; cadmium—0.11; chromium—5.0; copper—0.50; lead—5.0; nickel—20.0; vanadium—15; and zinc—200.
(3)(B). Organic Constituents (all units are milligram per liter) acetone—26.0; benzene—0.05; carbon tetrachloride—0.18; chloroform—0.14; 1,2-dichlorobenzene—0.77; hexachlorobenzene—0.13; nitrobenzene—0.14; pentachlorobenzene—0.04; pyridine—0.26; toluene—10.0; toxaphene—89; and vinyl chloride—0.05.

Table 1 - Wastes Excluded
Syngenta Crop Protection, Inc., St. Gabriel, LA
<p>(4). Changes in Operating Conditions If Syngenta significantly changes the operating conditions specified in the petition, Syngenta must notify the department in writing. After receipt of written approval by the department, Syngenta must re-institute the testing required in conditions (1)(A) and (1)(C) for a minimum of four consecutive months. Syngenta must report unit operating conditions and test data required by conditions (1)(A) and (1)(C), including quality control data, obtained during this period no later than 60 days after the changes take place. After written notification by the department, Syngenta may replace testing conditions (1)(A) and (1)(C) with (1)(B) and (1)(D). Syngenta must fulfill all other requirements in condition (1).</p>
<p>(4)(A). Processing Equipment Syngenta may elect to change processing equipment based on operational performance and economic considerations. In the event that Syngenta changes operating equipment, Syngenta must re-institute processing and initiate testing required in conditions (1)(A) and (1)(C) for a minimum of four consecutive months. Syngenta must report unit operating conditions and test data required in conditions (1)(A) and (1)(C), including quality control data, obtained during this period, no later than 60 days after the changes take place. Following written notification by the department, Syngenta may replace testing conditions (1)(A) and (1)(C) with (1)(B) and (1)(D). Syngenta must fulfill all other requirements in condition (1).</p>

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 20:1000 (September 1994), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2397 (December 1999), LR 26:2509 (November 2000), LR29:1084 (July 2003), repromulgated LR 29:1475 (August 2003), amended by the Office of Environmental Assessment, LR 30:2464 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:**.

A public hearing will be held on February 27, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by HW094P. Such comments must be received no later than March 6, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of HW094P. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Syngenta Crop Protection
Delisting Petition**

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

There will be no cost or saving to state or local governmental units for implementing this rule.

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

The state will collect approximately \$43,000 per year less (based on 2005 levels) in hazardous waste disposal tax revenue as a result of this proposed delisting rule.

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

In addition to savings of approximately \$43,000 per year in hazardous waste disposal tax, Syngenta will pay approximately \$60,000 per year less in analytical costs and about \$30,000 per year less to waste container suppliers. The result will be an immediate net saving of about \$133,000 per year for Syngenta, which will allow for continued operation of its multi-purpose incinerator (MPI) for an additional time, despite recent increases in natural gas costs for operation of the system. The delisting of this scrubber effluent will not relieve the company from any liability for these wastes under federal or state law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effects on competition and employment are negligible. This delisting would only reduce the substantial cost to the company of operating the system and not increase receipts.

Herman Robinson, CPM
Executive Counsel
0701#060

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

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

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

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective upon promulgation.

The text of this proposed Rule can be viewed in the Emergency Rule section of this edition of the *Louisiana Register*.

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows. It will increase the lifetime maximum benefit for outpatient prescription drug benefits for OGB plan participants from \$250,000 to \$500,000 per individual.

Interested persons may present their views, in writing, to Tommy D. Teague, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Friday, February 23, 2007.

Tommy D. Teague
Chief Executive Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: PPO, EPO, and MCO Plans of Benefits Lifetime Maximum Prescription Drug Benefit

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

It is estimated that this benefit modification will cost the PPO, EPO and MCO plans of OGB approximately \$40,000 to \$110,000 in FY 06/07 (6 months of the Fiscal Year), \$88,000 to \$242,000 in FY 07/08, and \$96,800 to \$266,000 in FY 08/09 (a 10% trend factor has been applied to FY 07/08 and FY 08/09). Although the increase of \$40,000 to \$110,000 in FY 06/07 for the cost of this benefit to OGB is paid from Agency-Self Generated Funds, 66% of the impact (\$26,667 to \$73,333) is on the State General Fund for employer contribution of premiums paid to OGB. This benefit would increase the current lifetime maximum threshold for prescription drugs from the current \$250,000 per member to \$500,000 per member. It is anticipated \$3,000 in expenses will be incurred with the publishing of this rule in FY 06/07.

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

Revenue collections of State or Local Governmental units should not be affected.

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

This rule will result in PPO, EPO and MCO members (approximately 230,000) having the lifetime maximum threshold for prescription drugs increased to \$500,000 per member from the current \$250,000 limit. There is no direct premium increase for members as a result of this additional benefit, in itself for FY 06/07, but increased costs will be considered for premium rates that are effective July 1, 2007 and thereafter.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

Tommy D. Teague
Chief Executive Officer
0701#065

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Manufactured Housing Commission

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

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

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 5. Manufactured Housing (Installation)

Subchapter A. General Requirements

§519. Placement of Used Homes

A. In accordance with 24 CFR Ch. XX §3280.305 et seq., manufactured homes in the secondary market shall be cited effective January 1, 2007 in accordance with federal wind zones standards applicable for Louisiana Zone II and III as set forth in 24 CFR Ch. XX §3280.305 et seq., and thereafter amended. However, if any manufactured home is cited within Louisiana Wind Zone II or III as of January 1, 2007 and the citing of this home within Wind Zone II or III can be definitively documented through such means as an installation permit sticker issued by and/or returned to the Louisiana Manufactured Housing Commission; a title which uniquely identifies your home and references the physical location of citing or some other independent means of credible documentation, then such manufactured home will be allowed to transfer indefinitely within the wind zone where it is cited as of January 1, 2007. Additionally, such manufactured home may also transfer to a less stringent wind zone than the zone where it is cited as of January 1, 2007.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Manufactured Housing Commission, LR 33:

Family Impact Statement

This proposed 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, there should be no known or foreseeable effect on:

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

Interested persons may submit written comments until 4:30 p.m., February 10, 2007, to Deanne M. Frazier, Executive Director, LA Manufactured Housing Commission, 224 Florida, Suite 101 Baton Rouge, LA 70801.

Deane M. Frazier
Executive Director

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

RULE TITLE: Placement of Used Homes

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This rule will have no implementation costs to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule change may result in additional but indeterminable costs if the homeowner were to choose to relocate to a more stringent wind zone which may necessitate the purchase of either a new HUD home or a HUD home in the secondary market which meets federal wind zone standards.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This rule will have no effect on competition or employment.

Deanne M. Frazier
Executive Director
0701#007

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Fees (LAC 46:LXIII.Chapter 6)

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

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

**Chapter 6. Fees
§601. Licensing Fees**

Licensing Fees	Amount
Application for Licensure	\$250
Oral Examination (Licensure, specialty change or additional specialty)	250
License Renewal	320
Emeritus License Renewal	160

Licensing Fees	Amount
Application for Certificate of Prescriptive Authority	250
Reinstatement of Lapsed License (Application plus renewal fee)	570

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33: §603. Administrative/Other Fees

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

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

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

Family Impact Statement

The Board of Examiners of Psychologists hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule related to fees charged by the Board of Examiners of Psychologists will have no known or foreseeable impact on the stability and functioning of the family; the authority and rights of parents regarding the education and supervision of their children; family earnings and family budget; behavior and personal responsibility of children; or, the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments to Jaime T. Monic, Executive Director, 8280 YMCA Plaza Dr., Bldg. 8-B, Baton Rouge, LA 70810. All comments must be submitted by 12 p.m., February 9, 2007.

Jaime T. Monic
Executive Director

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

RULE TITLE: Fees

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The estimated implementation cost for this rule totals \$120 in FY06-07 and only applies to the Board of Examiners of Psychologists. Those costs are related to publishing the proposed and final rule in the Louisiana Register.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will increase the revenue collections of the Board by approximately \$50,400 in FY06-07.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This proposed rule will increase the one time application fee by \$100 affecting approximately 40 applicants for licensure annually. An increase in the one time oral examination fee of \$100 will affect approximately 19 candidates for licensure, and 1 psychologist per year who would opt to change or add a specialty to their license, thus requiring an oral examination.

Approximately 15 psychologists per year apply for an optional Certificate of Prescriptive Authority (Medical Psychology License), which will increase this fee by \$150. The annual licensing renewal fee for approximately 600 psychologists will increase by \$70 (\$35 for emeritus status). The increase in the application and renewal fee has an automatic and direct effect on the amount of the reinstatement fee (In accordance with RS 37:2354.C, this fee must equal the application fee plus the renewal fee). As a result, the reinstatement fee will increase by \$170 which is applicable only if a psychologist allows their license to lapse for failure to pay the required renewal fee or submit continuing education as required by the laws and rules that govern this Board. This rule also publishes the administrative fees currently charged by the Board. There is no other impact anticipated from this proposed action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Jaime T. Monic
Executive Director
0701#034

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Licenses (LAC 46:LXIII.900 and 901)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists intends to promulgate LAC 46:LXIII.900 and amend LAC 46:LXIII.901.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Chapter 9. Licenses

§900. License Renewal

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

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

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

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

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

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

§901. Renewal of Lapsed Licenses

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

B. - E. ...

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

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

Family Impact Statement

The Board of Examiners of Psychologists hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule related to the license renewal of psychologists will have no known or foreseeable impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; family earnings and family budget; behavior and personal responsibility of children; or the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments to Jaime T. Monic, Executive Director, 8280 YMCA Plaza Dr., Bldg. 8-B, Baton Rouge, LA 70810. All comments must be submitted by 12 p.m., February 9, 2007.

Jaime T. Monic
Executive Director

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

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

The estimated implementation cost for this rule totals \$120 in FY06-07 and only applies to the Board of Examiners of Psychologists. Those costs are related to publishing the proposed and final rule in the Louisiana Register.

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

There is no estimated effect on revenue collections.

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

There is no estimated costs or economic benefits to affected persons or non-governmental groups. The proposed rule clarifies the circumstances under which a licensee may renew their license and aligns renewal procedures with current Board policy.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Jaime T. Monic
Executive Director
0701#035

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Veterinary Medicine

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

Editor's Note: This Notice of Intent is being republished due to an error upon submission. The original Notice of Intent may be viewed on pages 2144-2145 in the November 2006 edition of the *Louisiana Register*.

The Louisiana Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.400, 403, 405, 409, and 413 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1569. This text is being amended to alter the requirements and program approval of continuing veterinary medicine education for annual renewal of veterinary medicine license, from 16 credits hours per year to 20 credit hours per year with an expansion in the nature and substance of acceptable credit hours, in order to maintain and improve professional competencies for the health, welfare, and safety of the citizens and animals of Louisiana. The proposed Rule will become effective, after promulgation, for the period of time (July 1, 2007-June 30, 2008) for the 2008-2009 annual license renewal and every annual license renewal period thereafter. The proposed Rule amendment has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 4. Continuing Veterinary Education

§400. Definitions

* * *

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

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

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

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

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

§403. Continuing Veterinary Education Requirements

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

1. any pre-approved program as described in §409;
2. ...

3. the 20 hour requirement for annual renewal of a license may be taken in any combination of the following board approved programs: clinical, alternative, regulatory, practice management, and/or research.

B. - E. ...

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

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

§405. Exceptions and Exemptions

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

B. - C.3. ...

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

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

§409. Approved Continuing Education Programs

A. ...

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

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

3. ...

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

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

§413. Non-Compliance

A. - D. ...

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

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

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

Interested parties may submit written comments to Wendy D. Parrish, Administrative Director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801, or by facsimile to (225) 342-2142. Comments will be accepted through the close of business on February 21, 2007. If it becomes necessary to convene a

public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on Thursday, March 1, 2007, at 10 a.m. at the Office of the Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA.

Wendy D. Parrish
Administrative Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Continuing Veterinary
Medicine Education**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendment (estimated at \$350 in FY 2007). Licensees will be informed of this rule change via the board's regular newsletter or other direct mailings, which result in minimal costs to the Board.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units as no increase in fees will result from the amendment.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule alters the requirements and program approval of continuing veterinary medicine education for annual renewal of veterinary medicine license, from 16 credit hours per year to 20 credit hours per year with an expansion in the nature and substance of acceptable credit hours. These authorized forms of educational experiences are to maintain and improve professional competencies for the health, welfare, and safety of the citizens and animals of Louisiana. The additional 4 credit units should have a minimal impact on costs incurred by the licensees for participation in continuing education programs already required by the licensees. The proposed rule will become effective, after promulgation, for the period of time (July 1, 2007-June 30, 2008) for the 2008-2009 annual license renewal and every annual license renewal period thereafter.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition and employment is anticipated as a result of the proposed rule.

Wendy D. Parrish
Administrative Director
0701#033

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Control of Rabies and Other Zoonotic Diseases
(LAC 51:III.101,103,105,107,109, 111 and 303)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to authority granted by R.S. 40:4A(2)(a), and R.S. 40:1277, notice is hereby given that the Department of Health and Hospitals, Office of Public Health, intends to amend Part III of the Louisiana State

Sanitary Code ("The Control of Rabies") in compliance with the Compendium of Animal Rabies and Control, 2006, current recommendation of Centers for Disease Control and Prevention, and local and state humane ordinances; and to correct several inaccuracies in the Code.

Title 51

PUBLIC HEALTH—SANITARY CODE

**Part III. The Control of Rabies and Other Zoonotic
Diseases**

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

**§101. Definitions
[formerly paragraph 3:001]**

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

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

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

Prairie Dogs—[Formerly paragraph 3:009] any burrowing rodents of the genus *Cynomys*. Prairie dogs can harbor monkeypox. Prairie dogs are also known to be a host for fleas, which carry the causative agent of Plague, the bacteria *Yersinia pestis*. These fleas have the potential to infect other wild animals, as well as domestic animals and humans. Prairie dogs are not indigenous to Louisiana.

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

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

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

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

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

**§103. Mandatory Vaccinations of Dogs, Cats, and
Ferrets
[formerly paragraph 3:002]**

A. No person shall own, keep or have in his custody a dog, cat, or ferret over three months of age that has not been vaccinated against rabies by a licensed veterinarian. Every owner of a dog, cat, or ferret shall cause said animal to be

vaccinated initially with a series of two vaccinations, the first to be administered at three months of age, the second to be administered one year after the initial vaccination. Dogs, cats, or ferrets initially vaccinated later than three months of age shall also be administered a series of two vaccines, the second vaccine to be given one year after the initial vaccination. Subsequent booster vaccines shall be administered one year after the administration of a vaccine that confers one year of immunity and three years after the administration of a vaccine that confers three years of immunity. Approved vaccines and durations of immunity are listed in the most recent *Compendium of Animal Rabies Prevention and Control* prepared by the National Association of State Public Health Veterinarians, Inc., at

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

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

§105. Human Exposure to Domestic Animal Bites
[formerly paragraph 3:003]

A. When any dog, cat, or ferret bites a human being, said animal shall be confined (as described in §113) for a minimum of 10 days following the bite, or said animal shall be killed and the head submitted immediately to a laboratory of the Louisiana Department of Health and Hospitals for examination for rabies. During the observation period a rabies vaccine should not be administered to the animal to avoid confusing signs of rabies with possible side effects of vaccine administration. Any dog, cat, or ferret that develops any signs during the 10-day observation period shall be reported immediately to the local health authority and, provided such signs are compatible with rabies as determined by a licensed veterinarian or the official state public health veterinarian, the animal shall be killed and the head submitted to a laboratory of the Louisiana Department of Health and Hospitals for examination.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chapter 3. Other Zoonotic Diseases

§303. Prohibition on Importation/Sale of Prairie Dogs

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

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

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

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

Family Impact Statement

1. The Effect on the Stability of the Family. None.
2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. None.
3. The Effect on the Functioning of the Family. None.
4. The Effect on the Family Earnings and Family Budget. None. The additional vaccine requirements are already suggested for the health of the family and the family's pets.
5. The Effect on the Behavior and Personal Responsibility of Children. None.
6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. Local governments will be required to do no more than currently mandated. If local jurisdictions wish, licensing of ferrets (like licensing of dogs and cats) may be used to generate additional revenue for local animal control agencies.

Interested persons may submit written comments until 4:30 p.m., February 9, 2007, to Dr. Gary Balsamo, State Public Health Veterinarian, 1450 L and A Road, Metairie, LA 70001.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Control of Rabies and Other Zoonotic Diseases

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

The proposed rule brings the Louisiana Public Health Sanitary Code in compliance with Centers for Disease Control recommendations for rabies vaccination of animals.

The addition of ferrets to the list of species in which rabies immunization is recognized will incur no costs to state or local governmental units. The current licensing and surveillance systems are already in place within DHH/OPH. In fact, the agency anticipates a savings to the DHH/OPH laboratory rabies surveillance testing due to the elimination of unnecessary testing. While this savings amount is unknown, the amount is projected to be minimal.

Also, 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)

These rule updates may increase local revenue from rabies licensing of ferrets, however these revenues are anticipated to be minimal.

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

There is a negligible cost to ferret owners for rabies vaccination and licensure. If local jurisdictions elect to include licensing of ferrets in animal licensing requirements, pet ferret owners may be required to comply with licensing requirements in the manner that is currently required of dog and cat owners.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Sharon Howard
Assistant Secretary
0701#066

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

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:XV.7703 and 7707 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is

promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement of psychological and behavioral services under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Reimbursement for these services is based on 70 percent of the allowable rate on the 2002 Medicare Fee Schedule for Area 1 (*Louisiana Register*, Volume 29, Number 2). As a result of the allocation of additional funds by the Legislature during the 2006 Regular Session, the bureau promulgated an Emergency Rule to increase the reimbursement fees for psychological and behavioral services in the EPSDT program (*Louisiana Register*, Volume 33, Number 1). This proposed Rule is being promulgated to continue the provisions of the December 18, 2006 Emergency Rule and to update the covered service descriptions in accordance with the revised Current Physicians' Terminology (CPT) and to remove the CPT procedure codes.

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 the implementation of this proposed Rule will have a positive impact on family functioning, stability or autonomy as it will encourage provider participation in the Medicaid Program and improve access to psychological and behavioral services in the EPSDT program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 77. Psychological and Behavioral Services

§7703. Covered Services

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

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

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

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

§7707. Reimbursement Methodology

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

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

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

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 proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, February 27, 2007 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

NOTICE OF INTENT

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

Pain Management Clinics
Licensing Standards
(LAC 48:I.Chapter 74)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 48:I.Chapter 74 as authorized by R.S. 40:2198.11-13. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Act 488 of the 2005 Regular Session of the Louisiana Legislature authorized the Department of Health and Hospitals to promulgate Rules establishing the licensing standards for pain management clinics, including operational and staffing requirements, licensing procedures and reimbursement methodology. Pain management clinics are public or private facilities which primarily engage in the treatment of pain by prescribing narcotic medications. In compliance with the directives of Act 488, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt provisions establishing the licensing standards for pain management clinics.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule will have a positive impact on family functioning and stability as it will assure that the clinics providing care for the management of chronic pain will have uniform licensing regulations governing operations which enhance the health and safety of patients.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 74. Pain Management Clinics

Subchapter A. General Provisions

§7401. Definitions

Addiction Facility—a facility that is licensed for the treatment of addiction to, or abuse of illicit drugs or alcohol, or both.

Board—the Louisiana State Board of Medical Examiners.

Deficient Practice—a finding of non-compliance with a licensing regulation.

Department—the Department of Health and Hospitals.

Health Standards Section—the section within the Department of Health and Hospitals with responsibility for licensing pain management clinics.

Interventional Pain Management Procedures—peripheral nerve blocks, epidural injections or spinal facet joint injections employed by a physician as a diagnostic or therapeutic modality of treatment.

Operated By—actively engaged in the care of patients at a clinic.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Early and Periodic Screening, Diagnosis and Treatment Psychological and Behavioral Services—Reimbursement Rate Increase

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

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$1,761 for FY 06-07, \$3,155 for FY 07-08, and \$3,250 for FY 08-09. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in FY 06-07 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$4,323 for FY 06-07, \$8,026 for FY 07-08, and \$8,266 for FY 08-09. It is anticipated that \$102 will be expended in FY 06-07 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

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

This rule, which continues the provisions of the December 18, 2006 Emergency Rule, proposes to amend the provisions governing the reimbursement methodology for the Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT) to increase the reimbursement fees for psychological and behavioral services (approximately 460 units of service). It is anticipated that implementation of this proposed rule will increase program expenditures for EPSDT psychological and behavioral services by approximately \$5,880 for FY 06-07 and \$11,181 for FY 07-08 and \$11,516 for FY 08-09.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Jerry Phillips
Medicaid Director
0701#073

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Pain Management Clinic or "Clinic"—a publicly or privately owned facility which primarily engages in the treatment of pain by prescribing narcotic medications.

Pain Specialist—a physician, licensed in Louisiana, with a certification in the subspecialty of pain management by a member board of the American Boards of Medical Specialties.

Physician—an individual who:

1. possesses a current, unrestricted license from the Board to practice medicine in Louisiana;
2. during the course of his practice has not been denied the privilege of prescribing, dispensing, administering, supplying, or selling any controlled dangerous substance; and
3. during the course of his practice has not had board action taken against his medical license as a result of dependency on drugs or alcohol.

Primarily Engaged—the majority of patients, 51 percent or more of the patients seen on any day a clinic is in operation, are issued a narcotic prescription for the treatment of chronic non-malignant pain. A physician who utilizes interventional pain management procedures on his patients, in addition to narcotic medications, shall not be considered primarily engaged in the treatment of chronic non-malignant pain by prescribing narcotic medications provided that the physician:

1. can demonstrate that he is qualified to perform interventional pain management procedures by virtue of his completion of a post-graduate or residency training program; and
2. is certified by a member board of the American Board of Medical Specialties.

Urgent Care Facility—a medical clinic which offers primary and acute health services to the public during stated hours of operation and which must accommodate walk-in patients seeking acute health services. For purposes of this definition, the treatment of chronic pain patients is not considered acute health services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

§7403. Ownership

A. Except as specified in §7403.B, each clinic shall be owned and operated by a physician certified in the subspecialty of pain management by a member board of the American Boards of Medical Specialties.

B. A clinic in operation on or before June 15, 2005, is exempt from §7403.A if all of the following requirements are met.

1. The clinic is not owned, either in whole or in part, by independent contract, agreement, partnership, or joint venture with a physician who during the course of his practice has:
 - a. been denied the privilege of prescribing, dispensing, administering, supplying, or selling any controlled dangerous substance; and
 - b. had board action taken against his medical license as a result of dependency on drugs or alcohol.
2. The clinic is not owned, either in whole or in part, by an individual who has been convicted of, pled guilty or nolo contendere to a felony.

3. The clinic is not owned, either in whole or in part, by an individual who has been convicted of, pled guilty or nolo contendere to a misdemeanor, the facts of which relate to the use, distribution, or illegal prescription of any controlled substance.

4. The clinic shall operate as an urgent care facility offering primary or acute health services, in addition to caring for patients with chronic pain, and shall have held itself out to the public as an urgent care facility.

C. A change of ownership (CHOW) shall be reported in writing to the Health Standards Section within five working days of the transfer of ownership by any lawful means. The license of a clinic is not transferable or assignable between individuals, clinics or both. A license cannot be sold.

1. The new owner must submit all documents required for a new license including the licensing fee. Once all application requirements are completed and approved by the department, a new license shall be issued to the new owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

Subchapter B. Licensing Procedures

§7411. General Provisions

A. It shall be unlawful to operate a clinic without obtaining a license issued by the department. The department is the only licensing agency for pain management clinics in the state of Louisiana.

B. A clinic must renew its license annually. A renewal application and licensing fee shall be submitted at least 30 days before the expiration of the current license. Failure to do so shall be deemed to be a voluntary termination and expiration of the facility's license. The license must then be surrendered to the department within 10 days, and the facility shall immediately cease providing services.

C. A license shall be valid only for the clinic to which it is issued and only for that specific geographic address. A license shall not be subject to sale, assignment, or other transfer, voluntary or involuntary. The license shall be conspicuously posted in the clinic.

D. Any change regarding the clinic's name, geographical or mailing address, phone number, or key administrative staff or any combination thereof, shall be reported in writing to the Health Standards Section within five working days of the change.

1. Any name change requires a change in the license and shall be accompanied by a \$25 fee.

E. A separately licensed clinic shall not use a name which is substantially the same as the name of another clinic licensed by the department.

F. Any request for a duplicate license shall be accompanied by a \$5 fee.

G. A clinic intending to have controlled dangerous medications on the premises shall make application for a Controlled Dangerous Substance (CDS) License, and shall comply with all federal and state regulations regarding maintenance and dispensation of such medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

§7413. Initial Application Process

A. An application packet for licensing as a pain management clinic shall be obtained from the Department of Health and Hospitals. A completed application packet for a clinic shall be submitted to and approved by the department prior to an applicant providing services.

B. An initial applicant shall submit a completed application packet including:

1. the current non-refundable licensing fee;
2. an approval for occupancy from the Office of the State Fire Marshal;
3. a recommendation for licensure from the Office of Public Health (OPH) based on an OPH inspection;
4. a zoning approval from local governmental authorities;
5. a criminal background check on all owners;
6. verification of the physician owner's certification in the subspecialty of pain management; and
7. proof of operation as an urgent care facility if in operation on or before June 15, 2005:

a. this proof shall be an occupational license or certificate of operation issued by local governmental authorities, in addition to verifying information that indicates the facility held itself out to the public as an urgent care facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

§7415. Licensing Surveys

A. After approval of the initial application by the department, a clinic shall undergo an initial licensing survey to determine that the clinic is in compliance with all licensing regulations. The clinic will receive advance notification of this survey.

1. No patient shall be provided service until the initial licensing survey has been performed and the clinic found to be in compliance.

2. In the event the initial licensing survey finds that a clinic is not in compliance with regulations of this Chapter, the department shall deny the initial license.

B. After the initial licensing survey, the department shall conduct a licensing survey at regular intervals as it deems necessary to determine compliance with licensing regulations. These surveys shall be unannounced to the clinic.

C. The department may conduct a complaint investigation for any complaint received against a clinic. A complaint survey shall be unannounced to the clinic.

D. A follow-up survey shall be done following any licensing survey or any complaint survey to ensure correction of the deficient practice cited on the previous survey. Such surveys shall be unannounced to the clinic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

§7417. Issuance of Licenses

A. The department shall have authority to issue two types of licenses: a full license or provisional license.

B. A full license may be issued only to applicants that are in compliance with all applicable federal, state and local laws and regulations. This license shall be valid until the expiration date shown on the license, unless the license has been revoked, terminated, or suspended.

C. A provisional license may be issued to those existing licensed clinics that do not meet the criteria for full licensure. This license shall be valid for no more than six months, unless the license has been revoked, terminated, or suspended.

1. A provisional license may be issued by the department for one of the following reasons, including but not limited to:

- a. the clinic has more than five deficient practices during any one survey;
- b. the clinic has more than three valid complaints in a one-year period;
- c. there is a documented incident of placing a patient at risk;
- d. the clinic fails to correct deficient practices within 60 days of being cited or at the time of the follow-up survey, whichever occurs first.

2. A clinic with a provisional license may be issued a full license if at the follow-up survey the clinic has corrected the deficient practice. A full license will be issued for the remainder of the year until the clinic's license anniversary date.

3. The department may re-issue a provisional license or initiate a license revocation of a provisional license when the clinic fails to correct deficient practice within 60 days of being cited or at the time of the follow-up survey, whichever occurs first.

4. The department may also issue a provisional license if there is documented evidence that any representative of the clinic has (without the knowledge or consent of clinic's owner, medical director and/or administrator) bribed, harassed, offered, paid for or received something of economic value for the referral of an individual to use the services of a particular clinic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

§7419. License Denial, Revocation or Non-Renewal

A. Pursuant to R.S. 49:950, the Administrative Procedure Act, the department may:

1. deny an application for a license;
2. refuse to renew a license; or
3. revoke a license.

B. A clinic license may not be renewed or may be revoked for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with pain management clinic licensing regulations;
2. failure to uphold patient rights whereby deficient practice may result in harm, injury or death of a patient;
3. failure of the clinic to protect a patient from a harmful act by a clinic employee or other patient(s) on the premises, including but not limited to:
 - a. an action posing a threat to patient or public health and safety;

- b. coercion;
 - c. threat or intimidation;
 - d. harassment;
 - e. abuse; or
 - f. neglect;
4. failure to notify proper authorities of all suspected cases of neglect, criminal activity, mental or physical abuse, or any combination thereof;
 5. failure to maintain sufficient staff to meet the needs of the patient;
 6. failure to employ qualified personnel;
 7. failure to remain operational on the days, and during the hours, the clinic has reported to the department that it will be open, unless the closure is unavoidable due to a man-made or natural disaster;
 8. failure to submit fees, including but not limited to:
 - a. fee for the change of address or name;
 - b. any fine assessed by the department; or
 - c. fee for a CHOW;
 9. failure to allow entry to a clinic or access to requested records during a survey;
 10. failure to protect patients from unsafe care by an individual employed by a clinic;
 11. failure to correct deficient practice for which a provisional license has been issued;
 12. when clinic staff or owner has knowingly, or with reason to know, made a false statement of a material fact in any of the following:
 - a. application for licensure;
 - b. data forms;
 - c. clinical records;
 - d. matters under investigation by the department;
 - e. information submitted for reimbursement from any payment source; or
 - f. advertising;
 13. clinic staff misrepresented or fraudulently operated a clinic;
 14. conviction of a felony, or entering a plea of guilty or nolo contendere to a felony by an owner, administrator, director of nursing, or medical director as evidenced by a certified copy of the conviction;
 15. failure to comply with all reporting requirements in a timely manner as requested by the department; or
 16. action taken by the board against a physician owning, employed or under contract to a clinic for violation of the board's pain management rules or other violations of the Medical Practice Act which would make him ineligible for licensure.

C. In the event a clinic's license is revoked or denied renewal, no other license application shall be accepted by the department from the owners of the revoked or denied clinic for a period of two years from the date of the final disposition of the revocation or denial action.

D. When a clinic is under a license revocation action, that clinic is prohibited from undergoing a change of ownership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

§7421. Notice and Appeal Procedures

A. The department shall furnish the applicant or clinic with written notice of the department's decision to deny a license, revoke a license, or refusal to renew a license.

1. The notice shall specify reasons for the action and shall notify the applicant or clinic of the right to request an administrative reconsideration or to request an appeal. A voluntary termination or expiration of the license is not considered an adverse action and is therefore not appealable.

2. The clinic shall have the right to file a suspensive appeal from the department's decision to revoke the clinic's license.

B. Administrative Reconsideration. A clinic may request an administrative reconsideration of the department's decision to revoke, deny, or refuse to renew a license.

1. A request for an administrative reconsideration must be submitted in writing to the Health Standards Section within 15 days of receipt of notification of the department's action.

2. Administrative reconsideration is an informal process and shall be conducted by a designated official of the department who did not participate in the initial decision to impose the action taken.

a. The designated official shall have the authority to:

- i. affirm the department's decision;
- ii. rescind the department's decision;
- iii. affirm part or rescind part of the department's decision; or
- iv. request additional information from either the department or the clinic.

b. A department spokesman and a clinic spokesman may make an oral presentation to the designated official during the administrative reconsideration.

3. Administrative reconsideration may be made solely on the basis of documents or oral presentations, or both, before the designated official and shall include:

- a. the survey report;
- b. the statement of deficiency; and
- c. any documentation the clinic may submit to the department at the time of the clinic's request for such reconsideration.

4. Correction of a deficiency shall not be a basis for administrative reconsideration.

5. An administrative reconsideration is not in lieu of the administrative appeals process and does not extend the time limits for filing an administrative appeal under the provisions of the Administrative Procedure Act.

C. Administrative Appeal Process. Upon denial or revocation of a license by the department, the clinic shall have the right to appeal such action by submitting a written request to the secretary of the department within 30 days after receipt of the notification of the denial or revocation of a license.

1. Correction of a deficiency shall not be the basis of an administrative appeal. Request for administrative reconsideration does not affect time frames for requesting an administrative appeal.

2. Notwithstanding the provisions of §7421.C, the department may immediately revoke a license in any case in which the health and safety of a client or the community may be at risk.

a. The clinic which is adversely affected by the action of the department in immediately revoking a license may, within 30 days of the closing, appeal devolutively from the action of the department by filing a written request for a hearing to the secretary of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

Subchapter C. Clinic Administration

§7431. Medical Director

A. Each clinic shall be under the direction of a medical director who shall be a physician who:

1. possesses a current, unrestricted license from the board to practice medicine in Louisiana;
2. during the course of his practice, has not been denied the privilege of prescribing, dispensing, administering, supplying, or selling any controlled dangerous substance; and
3. during the course of his practice has not had any board action taken against his medical license as a result of dependency on drugs or alcohol.

B. The medical director shall be a physician certified in the subspecialty of pain management by a member board of the American Boards of Medical Specialties, except for the following exemption.

1. A clinic which has been verified as being in operation on or before June 15, 2005, is required to have a medical director, but is exempt from having a medical director who is certified in the subspecialty of pain management by a member board of the American Boards of Medical Specialties.

C. Responsibilities. The medical director is responsible for the day-to-day operation of a clinic and shall be on-site 50 percent of the time during the operational hours of the clinic. In the event the medical director is not on-site during the hours of operation, then the medical director shall be available by telecommunications and shall be able to be on-site within 30 minutes.

1. The medical director shall oversee all medical services provided at the clinic.

2. The medical director shall ensure that all qualified personnel perform the treatments or procedures for which each is assigned. The clinic shall retain documentation of proficiency and training.

3. The medical director, or his designee, is responsible for ensuring a medical referral is made to an addiction facility, in the event diversion or illicit use by a patient or staff member is reasonably suspected.

4. The medical director is responsible for ensuring a urine drug screen of each patient is obtained as part of the initial medical evaluation and intermittently, no less than quarterly, during the course of treatment for chronic pain.

5. The medical director shall ensure that patients are informed of after-hours contact and treatment procedure.

6. The medical director is responsible for applying to access and query the Louisiana Prescription Monitoring Program (PMP).

a. The PMP is to be utilized by the medical director and the pain specialist as part of a clinics' quality assurance program to ensure adherence to the treatment agreement signed by the patient.

i. The treatment agreement states that the patient has been informed that he shall only obtain and receive narcotic prescriptions from the clinic where he is being treated for chronic pain.

(a). The patient shall be subject to periodic unannounced drug screens and shall not participate in diversion of any controlled dangerous substance or narcotic medications, or both.

b. Compliance to this agreement is to be determined and evaluated at each subsequent visit to a clinic when the patient receives a prescription for a narcotic medication or controlled dangerous substance, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

§7433. Clinic Operations

A. A clinic shall establish and implement policies and procedures consistent with all pain management rules and regulations issued by the board.

B. A clinic shall verify the identity of each patient who is seen and treated for chronic pain management and who is prescribed a narcotic medication or controlled dangerous substance.

C. A clinic shall establish practice standards to assure quality of care, including but not limited to, requiring that a prescription may not be written for a medication for more than 30 days.

D. Each medical evaluation of a patient treated for chronic, non-malignant pain shall be conducted by a physician certified in the subspecialty of pain management by a member board of the American Boards of Medical Specialties.

E. On each visit to the clinic which results in a controlled dangerous substance being prescribed to a patient, the patient shall be personally examined by a pain specialist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

Subchapter D. Facility Requirements

§7443. Facility Inspections

A. The clinic shall pass all required inspections and maintain a current file of reports and other documentation demonstrating compliance with applicable laws and regulations. The inspections shall be signed, dated, and free of any outstanding corrective actions.

1. The following inspections are required:

- a. annual fire marshal inspection;
- b. annual inspection by the Office of Public Health;
- c. quarterly fire alarm system test by facility staff;

and

d. regular inspections of the clinic elevators, if any.

B. A certificate of occupancy, as required by local authorities, shall be on file in the clinic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

§7445. Physical Environment

A. A clinic shall be constructed, arranged and maintained to ensure the safety and well being of the patient and the general public.

B. The clinic premises shall meet the following requirements including, but is not limited:

1. a sign maintained on the clinic premises that can be viewed by the public which shall contain, at a minimum, the:
 - a. name of the clinic; and
 - b. hours of operation;
2. a neat and clean general appearance of the clinic with established policies and procedures for maintaining a clean and sanitary environment on a regular basis;
3. an effective pest control program shall be maintained to ensure the clinic is free of insects and rodents;
4. proper ventilation, lighting and temperature controls in all areas of the clinic;
5. provisions for emergency lighting and communications, in the event of sudden interruptions in utilities to the clinic; and
6. clearly marked exits and exit pathways with exit signs in appropriate locations.

C. Administrative and public areas of the clinic shall include at least the following:

1. a reception area with a counter or desk, or both;
2. a waiting area with seating containing not less than two seating spaces for each examination or treatment room;
3. a conveniently located, handicapped accessible, public toilet with a lavatory for hand washing with hot and cold water;
4. a conveniently accessible public telephone;
5. a conveniently accessible drinking fountain;
6. at least one consultation room large enough to accommodate family members, in addition to treatment rooms;
7. designated rooms or areas for administrative and clerical staff to conduct business transactions, store records and carry out administrative functions, separate from public areas and treatment areas;
8. a multipurpose room for conferences, meetings, and health education purposes which may be used for the consultation room;
9. filing cabinets and storage for medical records, such records shall be protected from theft, fire, and unauthorized access and having provisions for systematic retrieval of such records;
10. adequate storage for the staff's personal effects; and
11. general storage facilities for supplies and equipment.

D. Clinical facilities shall at least include the following:

1. **General-Purpose Examination Room.** Each room shall allow at least a minimum floor area of 80 square feet, excluding vestibules, toilets, and closets. Room arrangement should permit at least 2 feet 8 inches clearance at each side and at the foot of the examination table. A hand washing station and a counter or shelf space adequate for writing shall be provided.
2. **Treatment Room.** A room for minor surgical and cast procedures, in the event such services are provided, shall have a minimum of 120 square feet, excluding vestibules, toilets, and closets. The minimum room

dimension shall be 10 feet by 12 feet. A lavatory and a counter or shelf space for writing shall be provided.

3. **Medication Storage Area.** All drugs and biologicals shall be kept under proper temperature controls in a locked, well illuminated, clean medicine cupboard, closet, cabinet or room.

a. Drugs and biologicals shall be accessible only to individuals authorized to administer or dispense such drugs or biologicals.

b. All controlled dangerous drugs or biologicals shall be kept separately from non-controlled drugs or biologicals in a locked cabinet or compartment.

c. Drugs or biologicals that require refrigeration shall be maintained and monitored under proper temperature controls in a separate refrigerator.

4. **Clean Storage Area.** A separate room or closet for storing clean and sterile supplies shall be provided.

5. **Soiled Utility Room.** Provisions shall be made for separate collection, storage, and disposal of soiled materials.

6. **Sterilization Area.** An area in the clinic shall be designated for sterilizing equipment if sterilization of supplies, equipment, utensils and solutions are performed in the clinic.

7. **Housekeeping Room.** A separate housekeeping room shall contain a service sink and storage for housekeeping supplies and equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

§7447. Infection Control Requirements

A. The clinic shall have policies and procedures to address the following:

1. decontamination;
2. disinfection;
3. sterilization;
4. storage of sterile supplies;
5. disposal of biomedical and hazardous waste; and
6. training of all staff in universal precautions upon initial employment and annually thereafter.

B. The clinic shall make adequate provisions for furnishing properly sterilized supplies, equipment, utensils and solutions.

1. Some disposable supplies and equipment shall be utilized but when sterilizers and autoclaves are utilized to sterilize supplies, equipment, utensils and solutions, they shall be of the proper type and necessary capacity to adequately sterilize such implements as needed by the clinic.

2. The clinic shall have policies and procedures that address the proper use of sterilizing equipment and monitoring performed to ensure that supplies, equipment, utensils and solutions are sterile according to the manufacturers' recommendations and standards of practice.

a. Such procedures and policies shall be in writing and readily available to personnel responsible for sterilizing procedures.

3. To avoid contamination, appropriate standards of care techniques for handling sterilized and contaminated supplies and equipment shall be utilized.

C. There shall be a separate sink for cleaning instruments and disposal of non-infectious liquid waste.

D. Each clinic shall develop, implement and enforce written policies and procedures for the handling, processing, storing and transporting of clean and dirty laundry.

1. In the event a clinic provides an in-house laundry, the areas shall be designed in accordance with appropriate clinic laundry design in which a soiled laundry holding area is provided and physically separated from the clean laundry area. Dirty or contaminated laundry shall not be stored or transported through the clean laundry area.

2. In the event an in-house laundry is utilized, special cleaning and decontamination processes shall be used for contaminated linens, if any.

E. A clinic shall provide housekeeping services which assure a safe and clean environment. Housekeeping procedures shall be in writing. Housekeeping supplies shall be made available to adequately maintain the cleanliness of the clinic.

F. Garbage and biohazardous or non-biohazardous waste shall be collected, stored and disposed of in a manner which prevents the transmission of contagious diseases and to control flies, insects, and animals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

§7449. Health and Safety Requirements

A. Environmental Requirements. The clinic, including its grounds, buildings, furniture, appliances, and equipment, shall be structurally sound, in good repair, clean, and free from health and safety hazards.

1. The environment of the clinic shall enhance patient dignity and confidentiality.

2. The clinic shall prohibit weapons of any kind in the clinic or on the clinic premises.

B. Evacuation Procedures and First Aid. The clinic shall respond effectively during a fire or other emergency. Each clinic shall:

1. have an emergency evacuation procedure including provisions for the handicapped;

2. conduct fire drills at least quarterly and correct identified problems promptly;

3. be able to evacuate the building safely and in a timely manner;

4. post exit diagrams conspicuously throughout the clinic; and

5. post emergency telephone numbers by all telephones, including but not limited to the patient telephone in the waiting area.

C. A clinic shall take all precautions to protect its staff, patients and visitors from accidents of any nature.

D. The clinic shall have a written, facility-specific, disaster plan and its staff shall be knowledgeable about the plan and the location of the plan.

E. Emergency Care

1. At least one employee on-site at each clinic shall be certified in Advanced Cardiac Life Support (ACLS) and be trained in dealing with accidents and medical emergencies until emergency medical personnel and equipment arrive at the clinic.

2. A clinic shall have first aid supplies which are visible and easy to access.

3. The following equipment and supplies shall be maintained and immediately available to provide emergency medical care for problems which may arise:

a. emergency medication, as designated by the medical director;

b. oxygen and appropriate delivery supplies, including and not limited to:

i. nasal cannula; and

ii. masks;

c. intravenous fluids; and

d. sterile dressings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13

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

§7451. Quality Assurance

A. A clinic, with active participation of its medical staff, shall conduct an ongoing, comprehensive quality assurance (QA) program which shall be a self-assessment of the quality of care provided at the clinic. Quality indicators shall be developed to track and trend potential problematic areas. These quality indicators shall include, at a minimum, the following:

1. the medical necessity of procedures performed, complications as a result of such performed procedures, and appropriateness of care;

2. any significant adverse affects of medical treatment or medical therapy, including the number of overdoses of prescribed medications or the number of deaths resulting from such overdoses, or both;

3. the number of patients referred to other health care providers for additional treatment or to an addiction facility;

4. the number of patient or family complaints or grievances and their resolutions;

5. the number of patients the clinic refuses to continue to treat due to misuse, diversion of medications, or non-compliance with prescribed medication treatment regimen;

6. identified infection control incidents; and

7. the monitoring of patients who have been treated with prescribed narcotic pain medication for a continuous period of 12 months and longer.

B. At least quarterly, the clinic shall systematically analyze all data and develop a corrective action plan for identified problems determined through the clinic's QA process.

1. When appropriate, the clinic shall make revisions to its policies and procedures and provide written documentation that the corrective action plan has been monitored for continued sustained compliance to the appropriate standard of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

Subchapter E. Patient Records

§7461. Patient Records

A. Retention of Patient Records

1. The clinic shall establish and maintain a medical record on each patient. The record shall be maintained to assure that the medical treatment of each patient is completely and accurately documented, records are readily

available and systematically organized to facilitate the compilation and copying of such information.

a. Safeguards shall be established to maintain confidentiality and protection of the medical record from fire, water, or other sources of damage.

2. The department shall have access to all business records, patient records or other documents maintained by or on behalf of the clinic to the extent necessary to ensure compliance with this Chapter.

a. Ensuring compliance includes, but is not limited to:

i. permitting photocopying of records by the department; and

ii. providing photocopies to the department of any record or other information the department may deem necessary to determine or verify compliance with this Chapter.

3. Patient records shall be kept for a period of six years from the date a patient is last treated by the clinic. The patient records shall:

a. remain in the custody of the clinic;

b. be maintained on the premises for at least one year; and

c. not be removed except under court order or subpoena.

4. Any patient record maintained off-site after one year shall be provided to the department for review not later than 24 hours after the department requests such medical record.

B. Content of Medical Record

1. A medical record shall include, but is not limited to, the following data on each patient:

a. patient identification information;

b. medical and social history, including results from an inquiry to the Prescription Monitoring Program (PMP), if any;

c. physical examination;

d. chief complaint or diagnosis;

e. clinical laboratory reports, including drug screens, if any;

f. pathology report (when applicable), if any;

g. physicians orders;

h. radiological report (when applicable), if any;

i. consultation reports (when applicable), if any;

j. current medical and surgical treatment, if any;

k. progress notes;

l. nurses' notes of care, including progress notes and medication administration records;

m. authorizations, consents, releases, and emergency patient or family contact number;

n. special procedures reports, if any;

o. an informed consent for chronic pain narcotic therapy; and

p. an agreement signed by the patient stating that he/she:

i. has been informed and agrees to obtain and receive narcotic prescriptions only from the clinic where he is receiving treatment for chronic pain;

ii. shall be subject to quarterly, periodic, unannounced urine drug screens;

iii. shall not participate in diversion of any controlled dangerous substance or narcotic medications, or both;

iv. shall not participate in illicit drug use; and

v. acknowledges that non-compliance with this agreement may be a reason for the clinic's refusal to treat.

2. An individualized treatment plan shall be formulated and documented in the patient's medical record. The treatment plan shall be in accordance with the board's Pain Rules and shall include, but is not limited to, the following:

a. medical justification for chronic pain narcotic therapy;

b. documentation of other medically reasonable alternative treatment for relief of the patient's pain have been considered or attempted without adequate or reasonable success; and

c. the intended prognosis of chronic pain narcotic therapy which shall be specific to the individual medical needs of the patient.

3. Signatures. Clinical entries shall be signed by a physician, as appropriate, i.e., attending physician, consulting physician, anesthesiologist, pathologist, etc. Nursing progress notes and assessments shall be signed by the nurse.

4. Nurses' Notes. All pertinent assessments, treatments and medications given to the patient shall be recorded in the nurses' progress notes. All other notes, relative to specific instructions from the physician, shall also be recorded.

5. Completion of the medical record shall be the responsibility of the patient's physician.

C. Provided the regulations herein are met, nothing in this Section shall prohibit the use of automated or centralized computer systems, or any other electronic or non-electronic techniques used for the storage of patient medical records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

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, February 27, 2007 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pain Management Clinics
Licensing Standards**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
It is anticipated that \$2,584 (\$1,292 SGF and \$1,292 FED) will be expended in FY 06-07 for the state's administrative expense for promulgation of this proposed rule and the final rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that the implementation of this proposed rule will increase self generated funds by approximately \$21,600 for FY 06-07, \$27,600 for FY 07-08, and \$33,600 for FY 08-09 as a result of the collection of annual fees from the licensing of pain management clinics. It is anticipated that \$1,292 will be expended in FY 06-07 for the federal share of the expense for promulgation of this proposed rule and the final rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This rule proposes to adopt provisions to establish licensing standards for pain management clinics (approximately 35 clinics), pursuant to Act 488 of the 2005 Regular Session of the Louisiana Legislature. Currently operating and new pain management clinics will have to comply with the proposed licensing standards. It is anticipated that the increased self-generated funds from the proposed fees will be sufficient to cover the cost associated with licensure activities in FY 07 and subsequent fiscal years.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This rule has no known impact on competition and employment.

Jerry Phillips
Medicaid Director
0701#074

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Labor
Office of Workers' Compensation**

**Workers' Compensation Court Hearing Procedures
(LAC 40:I.Chapters 55-66)**

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

Title 40

LABOR AND EMPLOYMENT

**Part I. Workers' Compensation Administration
Subpart 2. Hearing Rules**

Chapter 55. General Provisions

Subchapter A. Definitions

§5501. Purpose; Definitions

A. - B. ...

Claimant—shall refer to the injured employee.

* * *

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

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

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

Subchapter C. Commencement

§5507. Commencement of a Claim

A. ...

B. Any claim may be initiated with the director, office of worker's compensation administration, or the district office of proper venue by hand delivery, United States mail, facsimile transmission or electronic transmission (with verified signature) addressed to the Office of Worker's Compensation administration.

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

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

§5509. Delay for Answering

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

B. ...

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

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

§5511. Service

A. ...

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

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

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

Subchapter D. Venue
§5515. Proper Venue

A. ...

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

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

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

Subchapter E. Recusal

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

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

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

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

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

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

§5529. Recusal on Court's Own Motion

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

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

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

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

D. On written application of a workers' compensation judge, the chief judge shall immediately reassign the matter

to another workers' compensation judge in either the same workers' compensation district office or another workers' compensation district office.

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

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

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

Subchapter F. Power and Authority

§5533. General

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

B. ...

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

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

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

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

§5537. Procedure

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

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

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

Subchapter G. Clerks

§5539. District Clerk; Pleadings Filed; Docket Books

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

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

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

Subchapter H. Bailiffs

§5541. Security

A. - C. ...

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

E. ...

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

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

Subchapter I. Attorneys and Other Persons before the Court

§5547. Withdrawal of Counsel

A. ...

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

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

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

Chapter 57. Actions

Subchapter A. General Provisions

§5701. Prescription; Filing Procedure

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

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

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

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

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

D. ...

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

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

§5705. Abandonment

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

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

2. - 3. ...

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

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

B. - C. ...

D. Repealed.

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

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

Subchapter B. Settlement

§5709. Joint Petition Settlements

A.1....

2. The procedure for perfecting settlements shall be governed by R.S. 23:1272. A hearing in open court with all parties present shall be required when one or more parties is not represented by counsel. Appearance by the parties and/or their representative may be waived if all parties are represented by counsel. In special circumstances and in the interest of judicial economy, the judge may allow the unrepresented party to waive his appearance and permit the party to appear by telephone. Appearance by the represented parties and/or their representative may be waived in written form.

B. ...

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

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

Chapter 58. Pleadings

Subchapter C. Forms

§5809. Forms

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

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

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

§5811. Format of Documents

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

been assigned to the claim and the name of the judge assigned to the claim, if available. All attorneys shall note their bar roll number on all documents and correspondence.

B. ...

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

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

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

Subchapter D. Mediation

§5813. Initial Mediation

A. The district office of proper venue shall set the matter for an initial mediation conference with a mediator only if the claimant/injured employee or his representative submits a Request for Initial Mediation form to the district office within 15 "business" days of filing of a claim. Notice of a scheduled initial mediation may be given by telephone, but shall be confirmed by United States Mail, facsimile transmission or electronic transmission. The notice shall indicate the date, time, and place of the conference. Upon filing of the LDOL-WC-1008 any party to the claim and/or their representative may request a copy of the Form 1008 filed in the case. No such request shall be denied by an employee of the Office of Workers' Compensation Administration.

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

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

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

E. If available, the parties shall bring or mail to the office prior to the conference two legible copies of the

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

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

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

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

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

§5815. Pretrial Mediation

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

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

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 33:

§5817. Conclusion of Mediation Conference

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

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

C. ...

D. If any proper party defendant is present or represented at the initial mediation conference, formal citation and service of process shall be made upon that defendant or its representative at that time. If the defendant(s) is participating by telephone, citation shall be waived and service shall be

accepted by facsimile. A signed waiver form shall be returned within 24 hours after the conclusion of the mediation by facsimile transmission. Citation and service of process shall be as provided in §5511. The affidavit of the mediator, facsimile confirmation, or waiver of service signed by the defendant or its authorized representative in any subsequent proceeding shall be prima facie evidence that service has been made in accordance with this rule.

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

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

§5819. Failure to Attend; Sanctions

A. If any party fails to appear at the pretrial mediation conference after proper notice and without just cause, the judge, upon report from the mediator, may fine the delinquent party an amount not to exceed \$500, which shall be payable to the Kids Chance Scholarship Fund of the Louisiana Bar Foundation. In addition, the judge may assess against the party failing to attend, costs and reasonable attorney's fees incurred by any other party in connection with the conference. The actions provided for in this Section shall be determined by the judge only after a contradictory hearing properly noticed by the court which shall be held prior to the hearing on the merits of the dispute unless waived upon joint motion of the parties. Appearance by the parties and/or their representative at the penalty hearing may be waived. The judge may entertain such action by telephone conference with all parties participating. Such telephone conference shall be initiated by the party requesting the telephone conference.

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

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

Subchapter F. Exceptions

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

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

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

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 33:

Subchapter G. Motions

§5831. Motion or Rule Day

A. ...

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

C. ...

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

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

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

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

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

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

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

Chapter 59. Production of Evidence

Subchapter A. General

§5901. Discovery and Attendance of Witnesses

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

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

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

§5905. Protective Orders

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

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

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

Subchapter B. Subpoena

§5909. Issuance; Service

A. Subpoenas issued in connection with any workers' compensation matter shall be served by the party requesting issuance of the subpoena, and may be served by certified mail return receipt requested or any other manner provided

in §5511. Proof of service shall be the responsibility of the party requesting the subpoena. Once issued and served, a subpoena may be canceled by the requesting party only after written notice to the opposing side. It shall be the responsibility of the requesting party to provide written notification of cancellation to all opposing parties as well as the person under subpoena. It shall be the responsibility of the parties to copy each other on the subpoenas they issue.

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

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

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

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

Subchapter D. Depositions

§5927. Expert Witness Fee

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

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 33:

Subchapter F. Production of Documents

§5933. Production of Documents; General; Medical Evidence

A. ...

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

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

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

Subchapter I. Motion to Compel

§5955. Motion for Order Compelling Discovery

A. ...

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

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

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

Subchapter J. Sanctions

§5961. Refusal to Obey Subpoena

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

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

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

§5963. Failure to Comply with Order Compelling Discovery

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

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

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

Chapter 60. Pretrial Procedure

§6001. Scheduling Conferences

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

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

1. - 3. ...

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

5. ...

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

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

C. ...

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

E. ...

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

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

§6003. Conferences or Hearings by Telephone

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

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

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

§6005. Pretrial Conference

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

B. ...

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

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

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

§6007. Pretrial Order

A. - A.3 ...

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

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

6. outstanding discovery and depositions to be taken.

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

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

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

§6009. Pretrial Mediation

Repealed.

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

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

Chapter 61. Hearings

Subchapter A. Expedited Hearings

§6101. Examination of an Injured Employee

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

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

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

Subchapter B. Continuance

§6103. General

A. - C. ...

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

2. If any of the parties are unrepresented, the uncontested motion may be granted if there are good

grounds therefore and if the workers' compensation judge believes it is in the best interest of the parties.

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

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

Chapter 62. Trial

Subchapter A. Trial Procedure

§6201. General

Repealed.

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

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

§6209. Testimony of Medical Personnel

A. ...

1. certified medical records;

2. - 4. ...

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

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

Subchapter B. Dismissal

§6211. Dismissal

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

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

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

Chapter 63. Judgments

Subchapter A. General

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

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

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

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

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

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

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

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

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

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

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

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

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

Subchapter C. Modification

§6311. General

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

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended LR 25:1870 (October 1999), LR 33:

§6315. Request for Modification

A. Any party to the claim may apply for modification pursuant to §6311. If the original decision or award was made by a district court judge, the party seeking the modification shall furnish the workers' compensation judge with the appropriate evidence and documents from the district proceedings.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended LR 25:1870 (October 1999), LR 33:

§6317. Exception

A. A motion for new trial shall be governed by Code of Civil Procedure Articles 1971 et seq.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended LR 25:1870 (October 1999), LR 33:

Chapter 65. Special Disputes

Subchapter A. Attorney Fees

§6501. Disputed Attorney Fees

A. When a dispute arises among several attorneys as to the identity of claimant's counsel of record, or when several

successive attorneys lay claim to a fee in the same case, the judge shall decide the issues raised and allocate the fee allowed in accordance with Rule 1.5 of the Rules of Professional Conduct of the Louisiana Supreme Court.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:280 (February 1999), amended LR 25:1870 (October 1999), LR 33:

Subchapter B. Social Security Offset

§6507. Offset

A. A request for offsets pursuant to R.S. 23:1225(C) made in connection with a disputed claim shall be made by filing Form LDOL-WC-1008 or by responsive pleading. An order shall be issued recognizing the entitlement to the offset for social security benefits from the date of judicial demand, and setting the amount of the offset after a determination of the character of the disability, the right to the offset, and calculation of the offset. A contradictory hearing properly noticed by the court may be set by the judge for this determination. Notice shall be provided to the claimant or his representative prior to issuance of the order. The order shall be served by certified mail upon all parties and the Social Security Administration. Such offsets may be taken upon receipt of proof of service of the order upon the Social Security Administration by the Office of Workers' Compensation Administration. Such offsets shall not be taken unless the social security offset has been removed.

B. A request for offsets pursuant to R.S. 23:1225(A) made in connection with a claim not in dispute may be made by motion on form LDOL-WC-1005(A) or by letter, filed in the appropriate district office. When properly filed, the motion or letter requesting an offset may be granted ex parte from date of filing. Such offsets shall not be taken unless the social security offset has been removed. No fee shall be charged in connection with a request made under this Subsection.

C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended LR 25:1871 (October 1999), LR 33:

Subchapter C. Financial and Compliance Hearings

§6509. Financial and Compliance Hearings

A. An initial mediation conference shall be held within 15 days of the filing of an appeal for financial and compliance matters.

B. If a resolution is not reached, a hearing on the appeal held pursuant to R.S. 23:1171 shall be held within 15 days of the conclusion of the initial mediation conference, and shall be conducted in accordance with the provisions of the Administrative Procedure Act.

C. Suspensive appeals of a determination of the financial and compliance officer will not be entertained.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended LR 25:1871 (October 1999), LR 33:

Chapter 66. Miscellaneous

Subchapter A. General

§6607. Posting of Docket

A. The clerk of the district office shall keep a docket upon which shall be entered the docket reference number of all matters set for mediation, hearing, or trial. The docket shall be posted on the Department of Labor website and in a conspicuous location of the district office on the first work day of each week for that week.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended LR 25:1871 (October 1999), LR 33:

Subchapter B. Costs

§6611. Medical Costs

A. Except as provided in R.S. 23:1034.2(E), the determination of all medical reimbursement shall be based upon the reimbursement schedule in effect at the time the services are rendered. Every attempt to resolve disputes over medical reimbursement shall be made by applying said schedule(s).

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended LR 25:1872 (October 1999), LR 33:

Subchapter C. Waiver of Costs for Indigent Party

§6613. General

A. Waiver of costs for indigent party shall be governed by Code of Civil Procedure Articles 5181 et seq. The request for waiver of costs shall be made on WC Form No. 1027.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended LR 25:1872 (October 1999), LR 33:

Family Impact Statement

1. The Effect on the Stability of the Family. The proposed amendments to the hearing rules for the Office of Workers' Compensation Administration will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. The proposed amendments to the hearing rules for the Office of Workers' Compensation Administration will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed amendments to the hearing rules for the Office of Workers' Compensation Administration will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed amendments to the hearing rules for the Office of Workers' Compensation Administration will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed amendments to the hearing rules for the Office of Workers' Compensation Administration will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The family or a local government is not able to perform the functions contained in the proposed amendments to the hearing rules for the Office of Workers' Compensation Administration.

Inquiries concerning the proposed repeal and enactment may be directed to Karen Reiners Winfrey, Assistant Secretary, Office of Workers' Compensation Administration, Louisiana Department of Labor, P.O. Box 94040, Baton Rouge, LA 70804-9040.

Interested persons may submit data, views, arguments, information or comments on the proposed repeal and enactment in writing, to the Louisiana Department of Labor, P.O. Box 94040, Baton Rouge, LA 70804-9040, Attention: Karen Reiners Winfrey, Assistant Secretary, Office of Workers' Compensation Administration. Written comments must be submitted and received by the department within 10 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the department within 20 days of the date on this notice.

John Warner Smith
Secretary of Labor

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Workers' Compensation
Court Hearing Procedures**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no financial impact on State or Local governmental units. These amendments relate to the procedural rules of court for the Office of Workers Compensation Administration.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no financial impact on revenue collections of state of local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no financial impact on economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no financial impact on competition and employment.

John Warner Smith
Secretary
0701#031

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources Office of Conservation

Statewide Order No. 29-B—Procedures for Hearings
and the Submission and Approval of Plans
for the Remediation of E&P Sites
(LAC 43:XIX.Chapter 6)

The Louisiana Office of Conservation proposes to amend LAC 43:XIX.Subpart 1 (Statewide Order No. 29-B) to include a new Chapter, i.e. LAC 43:XIX.Chapter 6, in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq. and pursuant to power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Sections 30:4 et seq. The proposed amendment will standardize regulatory procedures for hearings for exploration and production site evaluation or remediation plans submitted for Office of Conservation approval subject to the statutory provisions of Act 312 of 2006 under R.S. 30:29.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 6. Procedures for Hearings and the Submission and Approval of Plans for the Remediation of E&P Sites in Accordance with LSA-R.S. 30:29

§601. Authority

A. These rules and regulations are promulgated by the commissioner of conservation pursuant to the Administrative Procedure Act as contemplated in R.S. 30:4 and 30:29.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

§603. Definitions

A. The words defined herein shall have the following meanings when used in these rules. All other words so used and not herein defined shall have their usual meanings unless specially defined in Title 30 of Louisiana Revised Statutes of 1950.

Affected Tract—any real property known or reasonably believed to have suffered environmental damage as defined in R.S. 30:29.

Date—the postmarked date of a letter or the transmittal date of a telegraphic or wireless communication.

Environmental Damage—any actual or potential impact, damage, or injury to environmental media caused by contamination resulting from activities associated with oilfield sites or exploration and production sites.

Environmental Media—include but not be limited to soil, surface water, ground water, or sediment, or as defined in R.S. 30:29.

Evaluation or Remediation—include but not be limited to investigation, testing, monitoring, containment, prevention, or abatement.

Feasible Plan—the most reasonable plan which addresses environmental damage in conformity with the requirement of Louisiana Constitution Article IX, Section 1

to protect the environment, public health, safety and welfare, and is in compliance with the specific relevant and applicable standards and regulations promulgated by a state agency in accordance with the Administrative Procedure Act in effect at the time of clean-up to remediate contamination resulting from oilfield or exploration and production operations or waste.

Final Submission—the last day on which any litigation party may submit a plan, comment, or response to a plan as provided by the orders of the court.

Litigation Party—any party to a judicial proceeding subject to R.S. 30:29 and who is not a responsible party as defined herein.

Oilfield Site or Exploration and Production (E&P) Site—any tract of land or any portion thereof on which oil or gas exploration, development, or production activities have occurred, including wells, equipment, tanks, flow lines or impoundments used for the purposes of the drilling, workover, production, primary separation, disposal, transportation or storage of E&P wastes, crude oil and natural gas processing, transportation or storage of a common production stream of crude oil, natural gas, coal seam natural gas, or geothermal energy prior to a custody transfer or a sales point. In general, this definition would apply to all exploration and production operations located on the same lease, unit or field.

Party—responsible parties and litigation parties as defined herein.

Plan—any submittal made in accordance with R.S. 30:29 and these rules for the evaluation or remediation of an affected tract as defined herein.

Responsible Party—the party or parties admitting responsibility for environmental damage or determined by the court to be legally responsible for environmental damage pursuant to R.S. 30:29.

Represented Party—any responsible party or litigation party who is represented by an attorney in the court matter that has been referred pursuant to R.S. 30:29 or before the Office of Conservation.

Technical Data—all basic factual information available that may be used to determine the levels of contamination and the vertical and horizontal extent of the contamination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

§605. Applicability

A. These rules of procedure shall be applicable to all hearings held by the Commissioner of Conservation pursuant to R.S. 30:29 (Act 312 of 2006). The posting and publication of a copy of the notice of hearing shall be accomplished as soon as practicable after such notice has been issued by the commissioner.

B. These rules of procedure shall in no way alter or change the right of any interested person, as provided in Paragraph F, Section 6 of Chapter 1 of Title 30 of the Louisiana Revised Statutes of 1950, to have the Commissioner of Conservation call a hearing for the purpose of taking action in respect to a matter within the jurisdiction of the commissioner, nor the requirement that the commissioner, upon receiving the request, promptly call a hearing. In addition, these rules shall in no way alter any other rights or claims, contractual or otherwise, which any

person has or may have except as provided in R.S. 30:29 (Act 312 of 2006).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

§607. Commissioner's Conference

A. The general purpose of the Commissioner's Conference shall be to set a hearing date and to set deadlines for the release of technical data, hearing notices, filing of all plans, witness and exhibit lists, and any other preliminary matters necessary and appropriate to the hearing not otherwise addressed by these rules.

B. As soon as practicable after the final submission, the commissioner shall schedule a Commissioner's Conference and notify each party of the date and time of the conference.

C. Notice of the Commissioner's Conference shall be mailed to each responsible party and litigation party or their representatives stating the time and place of the conference.

D. Each responsible party or their representative is required to participate in the Commissioner's Conference.

E. Any litigation party may participate in the Commissioner's Conference, even if such party has not requested the Commissioner's Conference.

F. The commissioner, or hearing officer appointed by the commissioner, shall have the right to call any other pre-hearing conferences at any time prior to the hearing, if in his opinion such a conference would resolve or narrow the issues in controversy or would assist in the conduct of the hearing.

G. Conferences held pursuant to these rules are designed to promote an open exchange of views among the parties; therefore, any reference to discussions among the parties as to the bases for a party's position at said conferences shall not be admissible in evidence at any hearing. Tape recordings and transcriptions made at any such conference also shall not be admissible in evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

§609. General Requirements of Plans

A. Plans shall be filed within the time limit set by the court and shall be filed with the commissioner. A copy shall be mailed or delivered to each party. Any party submitting a plan shall submit at least three hard copies of the technical data and plan, as well as an acceptable electronic copy to the commissioner. In addition to outlining the purpose thereof, plans shall include the information required by §615 and shall include or be accompanied by the following:

1. a statement that a reasonable effort has been made to obtain a complete list of parties;

2. a statement that a Commissioner's Conference has or has not been held, and if held, a list of the parties in attendance;

3. a plat prepared in accordance with all applicable memoranda, with any technical data labeled thereon and the other items required by statute or by the commissioner;

4. a statement that the plan is to evaluate or remediate the environmental damage in accordance with the requirements of the applicable rules and regulations of the Office of Conservation or, if the plan seeks to apply rules

and regulations of another Louisiana state agency, a citation to the specific rules and regulations of that state agency.

B. If a proposed plan is revised by any party, the revised plan shall be submitted as amended to the Commissioner of Conservation and forwarded to the parties in the same manner as the original plan with a revised plat.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

§611. Specific Requirements of Plans

A. The Commissioner of Conservation shall consider only those plans filed in a timely manner and in accordance with these rules and orders of the court.

B. Except as provided in §611.F, each plan or submittal of any Responsible Party or any Litigation Party shall be evaluated in accordance with Statewide Order 29-B. Sampling and testing shall be performed in accordance with Statewide Order 29-B. Each plan shall fully delineate the vertical and horizontal extent of the environmental damage.

C. All Statewide Order 29-B sampling shall be in accordance with applicable guidelines as provided in the latest revision of the Department of Natural Resources laboratory procedures manual titled "Laboratory Procedures for Analysis of Exploration and Production Waste" and shall contain a plat showing the physical location from which such samples were obtained, provided that any sampling performed prior to the adoption of this Chapter may be considered by the commissioner in approving or structuring a plan if the commissioner determines that such sampling was conducted in accordance with a scientifically reliable methodology.

1. In addition, information as to the identity of the person or company taking the samples, a copy of the certification of such person or company taking such samples (if applicable), and documentation showing the method of sampling, the chain of custody and all other such relevant information shall be included.

D. All Statewide Order 29-B sample analyses shall be in accordance with applicable regulatory requirements and the latest revision of the Department of Natural Resources laboratory procedures manual titled "Laboratory Procedures for Analysis of Exploration and Production Waste" and shall be performed by a DEQ LELAP accredited laboratory holding current accreditation for each parameter and corresponding test method used, provided that any sample analyses performed prior to the adoption of this Chapter may be considered by the commissioner in approving or structuring a plan if the commissioner determines that such sample analyses was conducted in accordance with a scientifically reliable methodology.

1. All Statewide Order 29-B test results shall also contain a report certified by the testing laboratory including, at a minimum, a description of the testing process or methodology, by whom such testing was conducted, a copy of the laboratory's accreditation to conduct the described test, and all applicable required quality assurance/quality control data.

E. Each plan shall contain a separate section analyzing the sampling and testing as set forth in C and D above by comparison with the applicable Statewide Order 29-B criteria.

F. Any plan submitted by any party, or approved or structured by the commissioner, shall comply with the standards set forth in Statewide Order 29-B. Any party that seeks an exception under the provisions of §319 of Statewide Order 29-B shall submit:

1. a plan that complies with all the provisions of Statewide Order 29-B, exclusive of §319; and

2. a separate plan that includes:

a. sufficient proof that there is good cause to grant an exception or exceptions sought under §319;

b. sufficient proof showing that the exception or exceptions sought under §319 do not endanger USDWs; and

c. a specific citation to the Louisiana rules, regulations or statutes sought to be applied in lieu of Statewide Order 29-B.

G. All plans shall also contain:

1. a chronological work schedule or proposal for a chronological work schedule detailing all activities necessary for its implementation and an estimated cost for each item;

2. a comprehensive itemized cost basis for each item listed in Paragraph G.1;

3. a certification of review and approval by signature from an attorney licensed to practice law in Louisiana, or an attorney from another jurisdiction who has been authorized to appear before the commissioner, worded as follows:

"I, _____, have reviewed the information submitted herewith and hereby attest that to the best of my knowledge, information and belief it is true and correct and is based on scientific data that has been obtained in a manner compliant with all applicable regulations."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

§613. General Requirements of Comments and Responses

A. Comments or responses shall be filed within the time limit set by the court and shall be filed with the commissioner and the court with a copy to each party. Any party filing a comment or response shall submit to the Commissioner of Conservation at least three hard copies of the comment or response and any data utilized as provided in §617, as well as an acceptable electronic copy to the commissioner. In addition to outlining the purpose thereof, the comments or responses shall, in addition to the information required by §615 include or be accompanied by the following:

1. a statement that a reasonable effort has been made to obtain a complete list of parties;

2. a plat prepared in accordance with all applicable memoranda, with any technical data labeled thereon and the other items required by statute or regulation or by the commissioner, if different from the plan on which the comments or responses are made;

3. a statement that the comment or response is to evaluate or remediate the environmental damage in accordance with the requirements of the applicable rules and regulations of the Office of Conservation or, if the comment or response seeks to apply rules and regulations of another Louisiana state agency, a citation to the specific rules and regulations of that state agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

§615. Notice of Filing a Plan, Comment or Response

A. Any litigation party filing a plan, comment or response pursuant to R.S. 30:29 shall also mail or deliver a copy to each litigation party or their representatives. If a representative represents more than one party, only one copy need be sent, unless otherwise ordered by the court.

B. Each plan, comment or response shall include a list of all parties to whom it is being provided and their addresses and other contact information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

§617. Release of Technical Data

A. Technical data regarding any plan, comment or response shall be provided to each party at the cost of the party sending such technical data at the time the plan, comment or response is filed with the commissioner and the court.

B. If the plan, comment or response utilizes data from another previously or concurrently filed plan, comment or response, a specific reference to the location of the data in those other filings will suffice to meet the requirements of this rule.

C. Reference to the source or sources, including commercial outlets, from whom such technical data can be obtained shall be included in the documentation required by these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

§619. Revisions to Plans, Comments or Responses Thereto

A. If, after any plan, comment or response is filed, such plan, comment or response is revised, the party revising the plan, comment or response shall promptly notify the commissioner and all parties to whom the plan, comment or response was sent, of the revision. The revising party shall furnish the commissioner at least three hard copies and one acceptable electronic copy of the data and revised plan, comment or response, and any technical data used to support the revision. The revising party shall also provide the court and all parties a copy of any revised plan, comment or response and any technical data used to support the revision. The revising party shall, if requested by the commissioner, participate in an additional Commissioner's Conference to discuss the revised plan, comment or response prior to the hearing. No revised plan, comment or response may be considered at the hearing unless notice of the revision has been sent to the commissioner, the court and to all parties to whom the legal notice is required at least ten days prior to the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

§621. Mandatory Disclosures and New Evidence

A. All technical data available to any party filing a plan, comment or response shall be disclosed to all parties on or before the date such plan, comment or response is filed with

the commissioner, regardless of whether such technical data is used or referenced in such plan, comment or response.

B. If new technical data becomes available to any party after proceedings have been initiated hereunder, such technical data shall be made available immediately to all parties by notice of its availability and by release in accordance with §617. Such technical data may be used by any party at the hearing and may be the basis for revision of plans, comments or responses previously made by any party. Subject to the time limitations set forth in R.S. 30:29, the commissioner in his discretion may determine that additional time should be afforded for consideration of new technical data. The commissioner in his discretion may also establish a time limit beyond which new technical data may not be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

§623. Hearing Officer

A. The Commissioner of Conservation may designate a licensed Louisiana attorney to act as hearing officer in any hearing or at any conferences under these rules.

B. The duties of the hearing officer include, but are not limited to, conducting any Commissioner's Conference provided under these rules, ruling on evidentiary or procedural matters, maintaining order at the hearings, and generally ensuring that an accurate record is made of the proceedings under these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

§625. Costs

A. At least 15 days before the scheduled hearing, the Commissioner of Conservation shall provide the court and litigation parties a schedule of its estimated costs for the review and evaluation of any plans, comments or responses, hearing costs as well as any other costs the Commissioner of Conservation is expected to incur. The responsible party shall deposit sufficient funds in the registry of the court, or, with the approval of the court, may submit such funds directly to the Commissioner of Conservation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

§627. Plan Approvals

A. Within 60 days of the conclusion of the hearing, or within such longer time as the court allows, the Commissioner of Conservation shall either approve a submitted plan as the most feasible plan or structure a plan which, based on the evidence submitted on the record, the commissioner determines to be the most feasible plan and shall further issue written reasons for the plan he approves or structures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

§629. Rehearing

A. Requests for rehearing by any party shall not be considered by the Commissioner of Conservation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

§631. Timeliness of Filings

A. All notices and filings provided for herein shall be presumed to be timely when the postmark date or actual date of receipt, if hand delivered, of the copy received by the commissioner complies with appropriate delays herein provided. Copies required to be provided to the parties shall be deposited on the same date in the United States mail, properly stamped and addressed, or, if telegraphic or wireless communication is used, dispatched on that date by the transmitting party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

§633. Notice of Hearings and Continued Hearings

A. In addition to the publication of the legal notice by the commissioner in the official state journal, the responsible party or parties shall provide for the posting of a copy of the legal notice of the hearing and a plat or plats in a prominent place in the area affected, and shall cause to be published at least 15 days before the hearing a copy of the legal notice in a newspaper published in the vicinity or general area of the affected tract or tracts. The responsible party or parties shall mail copies of the legal notice to all parties and a copy of the plat or plats shall be included with the legal notice, if said parties have not already been furnished same. Evidence to establish posting, publishing and mailing shall be submitted at the hearing.

B. When a hearing is opened and continued, the notice given for the original hearing shall be applicable to the continued hearing, if the hearing officer at the time of granting the continuance designates the new time, date and place of the continued hearing. In all other instances of a continued hearing, the responsible party or parties shall at least 15 days before the hearing provide notice of the continued hearing by posting such notice in a prominent place in the area affected, by publishing such notice in a newspaper published in the vicinity or general area of the affected tract or tracts and by mailing such notice to all parties.

C. In no case shall a hearing be held more than 60 days from the date of the final submission without the express approval of the trial court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

§635. Rules of Hearing Conduct and Procedure

A. The responsible party or parties shall first present the entire scientific, technical or other bases of their plan or plan(s).

B. Any litigation party or parties who have filed a comment in support of any responsible party's plan or plans shall then present the entire scientific, technical or other bases for their support and shall do so immediately after the responsible party or parties have completed their presentations.

C. Any litigation party who has submitted a plan or plans shall then present the entire scientific, technical or other

bases thereof. If any litigation party has filed a comment in opposition to any responsible party's plan or plans, such party shall then present their entire scientific, technical or other bases for such opposition. Any litigation party who has filed a comment in support of a litigation party's plan shall then present the entire scientific, technical or other bases for such support.

D. Each responsible party shall then have the opportunity to provide rebuttal evidence in response to the opposition to its plan or plans, or in response to any plan offered by any litigation party.

E. The litigation party filing the plan shall then have the opportunity to provide rebuttal evidence in response to the opposition to its plan.

F. All rebuttal scientific, technical or other testimony, shall be strictly limited to a refutation of the matters covered by the opponents.

G. Any witness shall be subject to examination by the commissioner or any member of his staff and by no more than two representatives of a party. Cross-examination shall be conducted in accordance with the following guidelines.

1. Cross-examination shall be limited to questions concerning the testimony and exhibits presented by the witness, testimony and exhibits presented by any other witness and the credibility of the witness.

2. Matters peculiarly within the knowledge of the cross-examiner or his witnesses shall be presented by them on direct examination, and there shall be no attempt to establish such matters by cross-examination.

3. Cross-examination shall be conducted in a polite and courteous manner without reference to personalities of the witness or the party represented by the witness.

H. After the litigation parties have all made their presentations, any party shall be afforded an opportunity to make a statement. If such a statement includes technical data, the party shall be subject to being sworn and cross-examined, provided that attorneys representing a party or parties shall not be subject to cross examination.

I. The litigation parties and responsible parties may make opening statements. The litigation parties and responsible parties may also make closing statements concerning their positions, but such statements shall not include technical matters which have not been presented by sworn testimony. The responsible parties shall have the right to make the last closing statement. If there is more than one litigation party or responsible party, the parties may agree on the sequence in which opening or closing statements are presented, or the commissioner or hearing officer shall determine the sequence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

§637. Penalty for Non-Compliance

A. Failure to comply with the provisions of or the spirit of these rules of procedure may prevent plan, comment or response from being advertised or heard, or may prevent a party from presenting evidence at the hearing, but any approval or structure of a plan issued by the commissioner shall not be invalid by operation of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

§639. Time of Commencement

A. The procedures set forth in these rules shall commence upon final submission date as provided in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

§641. Coverage of Rules

A. Nothing contained in these rules shall in any way limit the authority of the commissioner of conservation to independently initiate any civil or administrative proceeding or to initiate any civil enforcement action.

B. Nothing in these rules shall in any way limit the Office of Conservation from independently responding to an inquiry or request by a landowner or any other person for investigation of alleged environmental damage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

The Commissioner of Conservation will conduct a public hearing at 10 a.m., Wednesday, February 28, 2007, in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at the public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., Wednesday, March 7, 2007, at Office of Conservation, Injection and Mining Division, PO Box 94275, Baton Rouge, LA, 70804-9275; or Office of Conservation, Injection and Mining Division, 617 North Third St., Room 817, Baton Rouge, LA 70802. Reference Docket No. IMD 2007-01 on all correspondence.

James H. Welsh
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Statewide Order No. 29-B—Procedures for Hearings and the Submission and Approval of Plans for the Remediation of E and P Sites

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

No additional implementation costs (savings) to State or Local government units are anticipated to implement the proposed rule amendment.

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

There will be no anticipated 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)

No costs or economic benefits to directly affected persons or non-governmental groups are anticipated. The proposed rule

amendment will standardize hearing procedures required of the Office of Conservation following passage of SB655 of the 2006 Regular Session (Act 312 of 2006).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will no effect on competition and employment.

James H. Welsh
Commissioner
0701#052

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

Community Resource Centers (LAC 22:I.340)

Editor's Note: This Notice of Intent is being republished to correct an error upon submission. The original Notice of Intent may be viewed on pages 2153-2155 in the November 2006 edition of the *Louisiana Register*.

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Louisiana Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to promulgate the contents of §340.

The purpose of this regulation is to establish the secretary's policy regarding the enactment of Community Resource Centers for eligible inmates to participate in emergency disaster relief efforts and to provide procedures regarding housing for those inmates who participate in such relief efforts.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

§340. Community Resource Centers

A. Purpose. To establish the secretary's policy regarding the enactment of Community Resource Centers for eligible inmates to participate in emergency disaster relief efforts and to provide procedures regarding housing for those inmates who participate in such relief efforts.

B. Applicability. Chief of operations, undersecretary, assistant secretary, regional wardens, wardens and the Director of Probation and Parole. Each unit head shall ensure that appropriate procedures are in place to comply with the provisions of this regulation.

C. Definitions

Advance Support Team—advance support teams secure appropriate housing, coordinate the delivery of necessary supplies, and address and/or assess current situations and conditions, as well as assess future needs. The team shall consist of a security supervisor and maintenance staff member. Other staff and/or inmates may be included as deemed necessary by the chief of operations, regional wardens and/or the warden.

Inmate Crews—inmate crews may be composed of any inmates that are classified as minimum custody at their assigned housing unit except for inmates prohibited from

participation as provided for in Paragraph E.1. Eligible inmates are subject to placement on the crews regardless of their usual work assignment. Additionally, inmates are required to be on a regular duty status and be medically capable of performing emergency disaster relief work.

Minimum Custody—generally, assignment of an inmate to a dormitory housing area. Movement outside of a secure perimeter is usually authorized without armed supervision or restraint. Institutional procedure governs the level of staff supervision when outside the secure perimeter, as well as internal movement controls.

D. Policy. It is the secretary's policy to establish Community Resource Centers for inmates to remediate the damage done following a natural disaster or emergency. The use of inmate labor will augment governmental personnel, private sector firms and community volunteers conducting remediation activities during the period immediately after such disaster. Inmate labor will not replace existing employees, be utilized on a project or job involved in a labor dispute, or supplant post disaster remediation activities that may otherwise be performed under contract by private sector firms employed by an affected individual or governmental entity.

E. Procedures

1. Inmates convicted of a crime of violence or convicted of a sex offense shall not be eligible to participate in the Community Resource Centers program.

2. Each unit shall determine the approximate number of inmates available for assignment to an inmate crew and develop appropriate inmate and staffing rosters. Information concerning the number of crews available from each facility shall be forwarded each May to the chief of operations for inclusion in the Incident Management Center (IMC) Resource Manual.

3. Inmate crews shall not exceed 10 inmates for each correctional officer supervising them.

4. In accordance with the Louisiana Homeland Security and Emergency Assistance and Disaster Act, after the governor has declared a disaster or emergency pursuant to executive order or proclamation, Community Resource Centers may be established in the parish where the work will be performed.

5. At the direction of the secretary or designee, the IMC will contact the appropriate warden with information relative to disaster relief needs of the affected area and/or the necessity of establishing a Community Resource Center.

6. Upon receiving the instructions from the IMC, the warden will activate the advance support team, other necessary personnel, and inmate crews.

7. Inmate crews that are deployed to a community or area more than two hours travel time from the unit or for an extended period may require housing in that area. The advance support teams will coordinate with the parish Office of Emergency Preparedness (OEP), local law enforcement, and district probation and parole office for accessing available housing resources.

8. The warden shall ensure that supervising staff of each inmate crew receive documentation for each inmate that includes an identification picture and master prison record sheet. In addition he will receive any medications that the inmates may have prescribed to them.

9. The wardens shall ensure that logs of inmate crew activities are maintained.

10. Wardens shall be responsible for providing transportation for each inmate crew. In addition, each unit shall be responsible for providing their own communications equipment such as 800 radios, cell and/or satellite telephones.

11. A unit may be required to make available an EMT or nurse to provide emergency medical care to the inmate crews in the area.

12. The IMC may coordinate with the Division of Probation and Parole for any additional security support needed at a Community Resource Center.

13. Inmate crew remediation assignments shall be coordinated by unit personnel on site through the state and/or local OEP. This information shall be forwarded to the unit, the IMC, and local law enforcement.

14. The rank structure for supervision of the Community Resource Centers shall be determined by the appropriate regional warden.

15. If the situation or conditions dictate, a centralized supply location or warehouse may be established to support inmate work crews.

16. Inmates participating in the Community Resource Centers program shall be eligible to earn 30 days of good time credit in addition to that otherwise authorized by law for every 30 days of service in this program. Therefore, each unit shall maintain records of the inmates assigned to the work crews and the number of days worked. These records shall be forwarded to the records office at the facility to determine the amount of good time to be awarded to the inmate.

AUTHORITY NOTE: Promulgated by the Department of Public Safety and Corrections in accordance with R.S. 15:833.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

Family Impact Statement

In accordance with the Administrative Procedure Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement.

Promulgation of LAC 22:I:340 by the Department of Public Safety and Corrections, Corrections Services, will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed Rule.

Written comments may be addressed to Melinda L. Long, Attorney for the Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804, until 4:30 p.m. on February 10, 2007.

Richard L. Stalder
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Community Resource Centers

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

Although costs or savings to state or local governmental units to staff and operate Community Resource Centers cannot be accurately estimated due to unknown frequency and circumstances of future natural disasters, the proposed rule is not anticipated to result in additional expenditures or costs at this time. Implementation of the rule is contingent upon appropriation by the legislature or the availability of any appropriate federal funds, which at this time has not occurred. The proposed rule will merely establish procedures in the event of a future natural disaster. If eventually implemented, there would be additional expenditures to the Department of Public Safety and Corrections for staff, fuel, transporting inmates, food, medical supplies, and other necessary miscellaneous expenditures. There would be a cost savings estimated at \$22.39 per offender per day for housing, assuming the impact would occur at the local level due to the offender earning an additional 30 days of good time for every 30 days of service in the program.

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

There is no anticipated direct material effect on governmental revenues as a result of this measure.

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

No additional costs to affected persons or non-governmental groups are anticipated as a result of this measure. Residents, businesses, and other responders may benefit from the additional assistance that the Community Resource Centers can provide during such emergencies. Such benefits to be derived from the operation of these centers cannot be accurately quantified.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No negative effect on competition and employment is anticipated as a result of this measure. The use of inmate labor will augment governmental personnel, private sector firms and community volunteers conducting remediation activities during the period immediately after such a disaster. Inmate labor will not replace existing employees, be utilized on a project or job involved in a labor dispute, or supplant post disaster remediation activities that would otherwise be performed under contract by private sector firms employed by an affected individual or governmental entity. To the extent that these centers can expedite remediation or other support activities, individuals, and businesses may recover and redevelop more quickly.

B.E. "Trey" Boudreaux, III
Undersecretary
0701#017

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

Fees
(LAC 46:LVII.517)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Department of Public Safety and Corrections, Board of Private Examiners, hereby gives notice of its intent to amend LAC 46:LVII.517, Fees.

In particular, the Department of Public Safety and Corrections hereby gives notice of its intent to amend the Board of Private Examiners current fees assessed, in addition to fees provided by R.S. 37:3516.

Title 46

**PROFFESIONAL AND OCCUPATIONAL
STANDARDS**

Part LVII. Private Investigator Examiners

**Chapter 5. Application, Licensing, Training,
Registration and Fees**

§517. Fees

A. In addition to the fees provided by R.S. 37:3516, the following schedule of fees shall be assessed:

- 1. for licensee or any business entity employing more than one investigator:
 - a. - c. ...
 - d. transfer of agent \$ 50;
- 2. for private investigator employed by a company or corporation, or apprentice investigator:
 - a. - d. ...
 - e. transfer of agency \$ 50;
- 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator examiners, LR 19:1335 (October 1993), amended LR 33:

Family Impact Statement

In accordance with the Administrative Procedure Act, R.S. 49:953(A) (1) (a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Board of Private Examiners, hereby provides the Family Impact Statement.

Amendment of the current LAC 46:LVII.517, Fees, by the Department of Public Safety and Corrections, Board of Private Examiners, will have no effect on the stability of the family, on the authority and right of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings, and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the in the proposed Rule amendment

Interested parties may submit written comments until 5 p.m., February 9, 2007, to Jonathan Holloway, Sr., General Counsel for Board of Private Investigators, P.O. Box 80777, Baton Rouge, LA 70898.

Douglas J. Chauvin
Chairman

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

RULE TITLE: Fees

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no estimated costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule change will result in an anticipated increase of revenue to the Louisiana State Board of Private Investigators in the amount of \$2,700 in FY07. This estimate is based upon a total of 108 assessments which are anticipated for FY07 at the rate of \$50 per assessment which double the previous fee. This increase should remain relatively constant in subsequent fiscal years.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule will result in an increase in the transfer fee from \$25 to \$50 to directly affected persons.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Jonathan Holloway
General Counsel
0701#078

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

Residential Referral (LAC 22:I.Chapter 13)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and R.S. 40:2851 and 2852, the Louisiana Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to promulgate the contents of Chapter 13, Judicial Agency Referral Residential Facilities.

The purpose of the promulgation of the aforementioned regulation is to establish the secretary's rules relative to the housing or temporary residence of individuals who have been arrested for the commission of a crime and are referred by any judicial agency to an approved residential facility and to provide for the construction, standards of operation and services provided by such residential facilities.

Title 22

CORRECTIONS

Chapter 13. Residential Referral

§1301. Judicial Agency Referral Residential Facilities

A. Purpose. To establish the secretary's rules relative to the housing or temporary residence of individuals who have been arrested for the commission of a crime and are referred by any judicial agency to an approved residential facility and to provide for the construction, standards of operation and services provided by such residential facilities.

B. Applicability. Chief of operations, undersecretary, assistant secretary and administrators of housing or temporary residential facilities.

C. Policy. No facility not otherwise required to be licensed by Department of Health and Hospitals or Department of Social Services shall provide housing or temporary residence to any individual referred by a judicial agency and no judicial agency shall refer any individual to a facility providing housing or temporary residence until the facility complies with rules as outlined in this regulation.

D. Procedure

1. The facility shall comply with all building codes, local zoning requirements and ordinances with regard to permits and licenses.

2. The State Fire Marshal and State Health Officer will determine rated bed capacity and approval for occupancy.

3. The facility shall comply with the Judicial Agency Referral Residential Facility Standard Operating Procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

§1303. Administration

A. The facility shall have a written document describing the facility's organization. The document shall include an organization chart that groups similar functions, services, and activities.

B. Regular meetings between the facility administrator, or designee and all department heads shall be held and there is formal documentation that such meetings are conducted at least monthly.

C. Written policy, procedure and practice shall provide for an independent financial audit of the facility at least annually or as stipulated by statute.

D. Each facility shall have comprehensive facility insurance coverage.

E. Residents' personal funds held by the facility are controlled by accounting procedures and in accordance with §1321, Residents' Personal Funds.

F. Staffing requirements for the facility shall ensure there is 24-hour monitoring and coordinating of the facility's life safety and communications systems.

G. Standard of Conduct for Employees of Residential Programs

1. Employees are expected to conduct themselves in a manner that will not bring discredit upon their facility.

2. Each employee is to be furnished with written notice of facility rules, policies and procedures.

3. The facility will provide at least one staff person on duty 24 hours a day to control the movement and location, at all times, of all residents assigned to the facility.

4. There shall be a method of staff identification so that they can be readily identified by visitors through utilization of name tags, identification cards, etc.

5. There should be written job descriptions and job qualifications for all positions in the facility. Qualifications should reflect the level of responsibility of the position.

6. All full-time employees must receive initial orientation training during the first week of employment and must participate in training and educational activities on an annual basis.

H. A training program shall be in place which will include orientation for all new employees (appropriate to their job) prior to assuming a position. Such training shall include:

1. fire and emergency procedures;

2. suicide prevention;

3. CPR and first aid;

4. resident rules and regulations.

I. Case records shall be maintained for each resident housed at the facility.

J. Written records or logs shall be maintained at the facility which continuously documents the following information:

1. personnel on duty;

2. resident population;

3. admission and release of residents;

4. shift activities;

5. entry/exit of all visitors including legal/medical;

6. unusual occurrences (including but not limited to major and minor disturbances, fires, escapes, deaths, serious illness or injury and assaults or other acts of violence).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

§1305. Physical Plant

A. The facility shall comply with the requirements of the State Fire Marshal and shall have a specific plan for addressing deficiencies, if any, that is approved by the State Fire Marshal. The State Fire Marshal shall approve any variances, exception or equivalencies.

B. The facility shall comply with the requirement of the State Health Officer and shall have a specific plan for addressing deficiencies, if any, that is approved by the State Health Officer.

C. The number of residents present at the facility shall not exceed the rated bed capacity as determined by the State Fire Marshal and State Health Officer. The State Fire Marshal will determine a capacity based upon exiting capabilities. The State Health Officer will determine a capacity based upon the ratio of plumbing fixtures to residents and square footage. The rated capacity will be the lower of these two figures.

D. Residents shall have access to toilets and hand washing facilities 24 hours per day and shall have access to operable showers on a reasonable schedule, (a minimum of three times per week).

E. The facility shall have sanitary areas for the storage of all foods that comply with applicable state and/or federal guidelines.

F. Toilet and hand basin facilities are available to food service personnel in the food preparation area.

G. The facility shall have exits that are properly positioned, clear, and distinctly and permanently marked to ensure the timely evacuation of residents and staff in the event of fire or other emergency.

H. The facility shall comply with all building codes, local zoning requirements and ordinances with regard to permits and licenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

§1307. Facility Operations

A. The facility shall have a system for physically counting residents that includes strict accountability for residents assigned to the program.

B. A current master list shall be maintained at all times of all residents assigned to the facility. This list is to be updated immediately whenever the facility receives, releases, or removes a resident from the facility.

C. There are several forms of control that must be considered around the facility. Physical control of the residents assures that all are accounted for at all times. When a count is conducted and it is found that a resident who is not physically present in the facility has not signed out on the log in accordance with the appropriate procedure or has signed out but has failed to return to the facility on time in accordance with appropriate procedures, the facility shall take immediate action to locate the resident. If the resident cannot be located a report must be filed by the next working day with the referring authority.

D. When a resident leaves the facility for any reason, he shall sign out in the facility log book. Each entry shall include: resident's name; destination; phone number at destination; address of destination; time out; anticipated time of return; actual time of return; and the initials of the appropriate staff member charged with monitoring the log book.

E. Facility staff shall ensure that resident work schedules are verified prior to the resident signing out for work.

F. Alcohol/drug testing shall be conducted both randomly and for probable cause. Costs associated with testing shall be the responsibility of the facility. However, restitution in the amount of the actual cost of the drug testing may be obtained from the resident when the test results are positive.

G. The facility itself shall remain staffed 24 hours a day in such a manner that no person can enter or exit the facility without the knowledge of the on duty staff.

H. There are written procedures for facility emergencies. Such procedures shall include the reporting of these incidents to local law enforcement or the appropriate authorities.

I. The facility shall have disciplinary rules and procedures available to the resident population.

J. Program access and administrative decisions shall be made without regard to resident's race, religion, national origin, or sex. The facility shall have written policy, procedure, and practice to protect residents from personal abuse, corporal punishment, personal injury, disease, property damage, and harassment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

§1309. Facility Services

A. Written policy, procedure, and practice shall require that food service staff plan menus and substantially follow the plan. The planning and preparation of all meals should take into consideration nutritional characteristics and caloric adequacy. The facility shall provide a tray/plate and utensil(s) for each hot meal. Records shall be maintained for all meals served. Three meals shall be provided at regular meal times during each 24-hour period for residents present in the facility at such meal time. Variations may be allowed based on weekend and holiday food service demands provided basic nutritional goals are met. Residents shall be provided an ample opportunity to eat.

B. The denial of food as a disciplinary measure is prohibited. Special diets as prescribed by appropriate medical or dental personnel shall be provided.

C. The facility shall have a written housekeeping plan that provides for the ongoing cleanliness and sanitation of the facility in addition to a plan for the control of vermin and pests.

D. The facility has an obligation to insure that the resident has adequate clothing appropriate to the season and the resident's work status, including adequate changes of clothing to allow for regular laundering.

E. The facility shall provide adequate bedding and linens. Residents shall have reasonable access to personal hygiene articles including soap, towels, toothbrush, toothpaste, toilet paper, shaving gear, and feminine hygiene articles.

F. The facility shall have written policy, procedure, and practice for the delivery of health care services, including medical, dental and mental health services under the control of a designated health care authority who may be a physician or a licensed or registered health care provider or health agency. Access to these services should be unimpeded in the sense that non-medical staff should not approve or disapprove residents for services in accordance with the facility's health care plan.

G. Anyone providing health care services to residents shall be licensed, registered, or certified as appropriate to their respective professional disciplines. Such personnel may only practice as authorized by their license, registration, or certification. Standing orders may be used in the treatment of residents only when authorized in writing by a physician or dentist. (Standing orders are used in the treatment of identified conditions and for the on-site emergency treatment of a resident.)

H. Personnel who do not have health care licenses may only provide limited health care services as authorized by the designated health care authority and in accordance with appropriate training. This would typically involve the administration of medication, the following of standing orders as authorized by the designated health care authority and the administration of first aid/CPR.

I. The facility shall provide 24-hour emergency medical services. This requirement may be met by agreement with a local hospital, on-call qualified health care personnel, or on-duty qualified health care personnel. Decisions regarding access to emergency medical services shall not be the sole province of non-health personnel except as noted above.

J. All residents entering the program shall receive a health screening. The purpose of the health screening is to protect newly admitting residents who pose a health safety threat to themselves or others from not receiving adequate medical attention. This should include inquiry into:

1. current medical, dental, or mental health treatment;
2. current medications;
3. current medical, dental, or mental health complaints

and documentation of appearance and behavior, and current physical traumas or characteristics.

K. The facility shall have a method in place for the proper management of pharmaceuticals. Residents are provided medication as prescribed.

L. First aid kits shall be available in areas of the facility as designated by the health care authority and should be immediately accessible to housing units.

M. Sick call shall be conducted, at least weekly, by a physician and/or other qualified health care personnel who are licensed, registered, or certified as appropriate to their respective professional disciplinary and who practice only as authorized by their license, registration, or certification.

N. There is a written suicide prevention and intervention program that is approved by a mental health professional who meets the educational and license/certification criteria specified by his/her respective professional discipline. All staff with responsibility for resident supervision are trained in the implementation of the program.

O. Written policy, procedure, and practice shall specify and govern the actions to be taken in the event of a resident's death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

§1311. Resident Programs

A. Educational programming shall be available from acceptable internal or external sources which should include, at a minimum, assistance in obtaining individualized program instruction at a variety of levels.

B. Written policy, procedure, and practice shall govern resident correspondence. Such policy should include provisions for inspection of mail for contraband or deterrence of material that interferes with legitimate facility objectives.

C. Written policy, procedure, and practice govern resident access to publications and packages from outside sources.

D. Written policy, procedure, and practice govern visiting. The number of visitors a resident may receive and the length of the visits may be limited only by the facility's schedule, space, and personnel constraints or when the facility administrator can present clear and convincing evidence that such visitation jeopardizes the safety and security of the facility.

E. Reading materials shall be available to residents on a reasonable basis.

F. Residents shall have reasonable opportunity for religious practice.

G. Exercise opportunities shall be available to residents adequate to ensure major muscle activity and outdoor exercise should be available on a regular basis.

H. Basic substance abuse education shall be provided to residents identified with alcohol and drug abuse problems.

I. There shall be no charge to residents for programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

§1313. Employment

A. There need be no general restriction on the types of jobs for which a resident may be considered. Each job offer will be investigated to determine if it is bona fide and consistent with program policies. The expectation is that the job selected will be that which best fulfills the purpose of the program. Good employment placement shall give preference to jobs that are related to prior training and are suitable for

continued employment. All employment plans must be consistent with state statutes. Concern for public safety shall guide employment decisions at all times. No resident is to work for or on the premises of a school, day care facility, or other business or agency whose primary objective is in the service of juveniles, or who provide housing, care and/or treatment of juveniles.

B. Every reasonable effort will be made by the facility to provide residents with the highest paying job possible. Within reason, convenience of job location, as it pertains to the facility providing transportation, should not be a deciding factor as to where residents are employed.

C. Residents will be assisted by facility staff in obtaining gainful employment. The facility will be responsible for maintaining liaison with sources of information on available jobs and with potential employers, and will provide transportation for job interviews.

D. All employers must sign the "Employer's Work Agreement Form" (Attachment #1) which indicates the terms and rules of the resident's employment, prior to the resident reporting to work for the employer. The facility must explain the requirements contained in the "Employers Work Agreement Form" to all approved employers. A copy of the signed form will be kept on file for the duration of the resident's stay at the facility. The employer agrees to report any attendance irregularities to the facility immediately and record same.

E. The employer must agree to provide a work situation where he or his designee, preferably a supervisor, will be present with the resident or at the work site at all times. Employment that does not provide for proper supervision of the resident and/or is deemed unsuitable by the facility director may be terminated.

F. The employer's responsibility to provide proper supervision for the resident extends from the time the employer receives the resident from facility personnel, either by picking him up at the facility or by having facility personnel transport the resident to the employer, and terminates when he returns the resident back to the facility personnel, either at the facility or to facility provided transportation. The ideal situation is for no resident to be unsupervised during the transportation process to or from an employment location. However, there may be a reasonable time (defined as less than an hour) allowed before work (when a resident is dropped off) and after work (when the resident is picked up) that he may be unsupervised.

G. Should the occasion arise and a resident is not picked up in a reasonable period of time, it must be noted on the transportation log with the reason why.

H. The facility is required to keep a list, which is updated weekly, of every employer who provides work for residents assigned to that facility. This list shall include but not be limited to the name and address of the employer, a brief description of the nature of the business, relevant telephone number(s), and whether or not work is performed at a stationary location or if the resident will be required to move during the course of the day.

I. If the resident's estimated time of return changes for any reason, this change must be verified by facility staff with the employer and noted in the daily log.

J. As previously mentioned, there are no general restrictions on the types of jobs residents may be considered

for except those relative to juveniles; however, common sense and logic must prevail. At all times, concern for public safety shall guide the decision. Residents should not be employed in a bar, lounge or tavern as a bartender, waiter or clean-up person. Employment in a hotel, motel or restaurant where a lounge is a part of the establishment may be acceptable if the employment is checked out by the facility and is determined to be appropriate.

K. No resident should be employed in a position which would necessitate his/her departure from the state of Louisiana.

L. Employer's Work Agreement Form

Employer's Work Agreement Form

RESIDENT'S NAME: _____
JOB TITLE: _____
WAGES: Rate ____ per ____ PAY PERIOD _____
OVERTIME: _____ per _____
WORK HOURS: _____ WORK DAYS: _____
EFFECTIVE DATE OF EMPLOYMENT: _____

I understand and agree to the following:

- (1). Any resident in my employment will be covered by my insurance, and/or workmen's compensation insurance as required by law.
- (2). The resident may be withdrawn from employment in the event of a strike.
- (3). The consumption of alcohol beverages or illegal drugs by the resident is prohibited. If the employer has knowledge or suspicion that the resident is using either of these substances, the facility administrator will be notified immediately.
- (4). The resident must report immediately to and return directly from work each day. The employer will immediately report any known violations to the facility administrator.
- (5). Staff from the residential facility may visit the resident= work site at any time.
- (6). The employer agrees to provide a work situation where he or his designee, preferably a supervisor, will be present with the resident or at the work site at all times.

The wages of the resident shall be made out to the resident on a standard payroll check. No other wages or cash should be given to the resident directly. The payroll check shall be accompanied by a statement which includes the resident's name, deductions made, the pay period and the computation of gross wages.

NAME: _____ TITLE: _____
COMPANY or ORGANIZATION: _____
ADDRESS: _____ PHONE: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

§1315. Community Involvement

A. Community involvement and volunteers can be an important contribution to any program by providing a number of services to residents, as well as serving as a link between the facility and the community. Policies and procedures regarding citizen involvement shall be developed and volunteers should be subject to approval by the facility administrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

§1317. Resident Activities

A. Daily Log. A daily log shall be maintained which will indicate when residents report to and leave work, and will

list events, messages, telephone calls, incidents, etc. This daily log will begin at 12 midnight and cover a 24 hour period. All resident work schedules shall be verified by facility staff prior to the inmate being logged out for work.

B. Resident Log

1. A daily resident log shall be maintained which will indicate when residents leave and return to the facility for any reason. The resident will sign out in the facility log book. Each entry will include: residents' name; destination; phone number at destination; address at destination; time out; anticipated time of return; actual time of return; and the resident's signature upon return. The employee on duty will initial each entry when the resident leaves the facility and when he returns. A clock with the correct time will be visible to both the resident and the employee and will serve as the official timepiece. This daily resident log will begin at 12 midnight and cover a 24 hour period. Resident logs will be kept on file for at least three years.

2. Random pat searches will be conducted in such a manner so as to discourage the introduction of contraband into the facility. Random pat searches and alcohol breath tests will be administered by a staff member to the resident population each day as they return to the facility. All searches and breath tests will be entered on the daily log.

C. Transportation Log. A daily transportation log will be kept on the activities of each transportation vehicle. This log will indicate who is driving the vehicle, when a resident enters the vehicle, when and where he is dropped off, when a resident is picked up, and from where, and when he is returned to the facility. This daily transportation log will begin at 12 midnight and cover a 24 hour period. Daily transportation logs will be kept on file for at least three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

§1319. Resident Discipline

A. Residents assigned to a residential program shall comply with all rules and procedures set forth by the facility. Each resident shall receive a copy of the facility handbook, all other rules and regulations of the program of that facility, including disciplinary procedures available to the staff, which the resident is required to read. The resident shall sign and date a statement acknowledging this, which is placed in his file.

B. All of the above shall be provided to the resident prior to his voluntary entry into the program.

C. The facility is responsible for ensuring that disciplinary reports are completed accurately and staff completing reports should receive training on report writing. A supervisor should review disciplinary reports prior to submission making certain essential elements (who, what, when, where, etc.) are covered with clarity. It is essential that reports be accurate as residents are subject to removal from the facility program for serious violations.

D. Restriction of Privileges. When residents are found guilty of a rule violation and are assessed penalties which restrict their privileges, the privileges which are restricted and the amount of time imposed should be posted in a conspicuous place so that all staff members are aware of the restrictions. Under no circumstances will privileges be restricted without a proper disciplinary report, a due process

hearing, and a finding of guilty. The denial of food will not be used as a disciplinary measure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

§1321. Resident Personal Funds

A. In keeping with the goals and objectives of the residential program, the facility should ensure as much of the resident's earned net wages as possible are maintained and available to the resident immediately upon release.

B. Funds held on behalf of the resident must be properly accounted for. The collection and disbursement of the resident's wages as well as the methods used for the receipt, safeguarding, disbursement and recording of funds must comply with generally accepted accounting principles. The legislative auditor of the state of Louisiana and/or the Office of the Governor, Division of Administration auditors shall have the option of auditing all accounts of the facility.

C. A ledger will be maintained reflecting the financial status of each inmate in the facility, and there will be adequate documentation to support the receipt/expenditure of inmate funds.

D. Internal Control

1. Certificates of bonding documenting coverage of staff handling resident's funds shall be available on site at the facility.

2. The facility will process all personal funds received on behalf of the resident, issue pre-numbered receipts for funds and post receipts to a ledger indicating receipt number. Funds received will be deposited daily (within 24 hours with the exception of weekends and holidays) in a public banking institution in an account designated "Resident Funds" and credits posted to the resident ledger.

3. All withdrawals or expenditures by a resident will be documented by a withdrawal request form, signed and dated by the resident. The withdrawal/expenditure is to be posted to the resident ledger with an adequate description relating to the transaction.

4. A statement of account balance will be given to the residents monthly.

5. The residents' account will be reconciled monthly. Upon receipt of the monthly bank statement, the facility prepares reconciliation to the resident ledger by:

a. adding all deposits and deducting all withdrawals to each individual ledger to determine each resident's current balance;

b. total current month's balances for all residents' ledgers including balances carried forward from previous months which have had no transactions in the current month;

c. compare this total to the reconciled bank balance;

d. investigate and resolve any discrepancies between the bank and the resident ledger.

E. Deductions. Deductions for room and board costs resulting from participation in a facility program will not exceed 50 percent of the net wages received for the week actually worked by a resident, or \$22 a day, whichever is less. Residents who work 40 hours or more weekly or earn net weekly wages in excess of \$308 are considered to be employed full time and the facility may deduct \$154 weekly for room and board or one-half of the net wages, whichever is less. Residents who work less than 40 hours and earn less than \$308 weekly are considered to be employed part time

and the facility may deduct for room and board \$22 per day for days actually worked or one-half of the resident's net wages, whichever is less.

1. All wages earned must go through the Resident Account Fund and be reflected on the ledger denoting the pay period.

2. Deductions for room and board fees will be based on days/hours worked as noted on the payroll check provided by the employer, not estimated figures. Documentation should be maintained in each residents' file.

F. Other Deductions Allowed

1. Transportation and Incidental Expenses. The facility may charge resident(s) \$4.50 each day the facility transports the resident for work purposes. A resident(s) employed offshore whom the contractor transports may charge the resident(s) a flat rate of \$50 monthly for transportation.

2. Allowance. The facility will develop procedures to determine the weekly allowance needed for incidental personal expenses in accordance with provisions in this Chapter. Residents(s) may be allotted up to \$30 weekly for living allowance.

3. Support of the Resident's Dependents. The resident and facility will mutually agree upon the amount to be sent to dependents. This agreement and authorization should be in writing. If there is a legal judgment of support, that judgment will suffice as written authorization to disburse the money.

4. Payment of the Resident's Obligations. Debts acknowledged by the resident shall be in writing, or reduced to judgment (including victim restitution), and should reflect the schedule by which the resident wishes the debt to be repaid. The facility will ensure that payment of this type debt is legitimate.

5. Canteen items should be priced at a reasonable cost to residents. Contractors that operate a canteen will provide to the facility administrator a list of canteen items sold and the price list of the cost of the item to the resident.

G. Items the Contractor Will Provide to Resident

1. The resident will not be required to pay for services and supplies which are to be provided by the facility, such as but not limited to linens, laundry, drug screens, locks/lockers, duffle or laundry bags, identification cards, lunch boxes, phone charges to locate employment. Additionally, upon arrival and until gainfully employed personal hygiene items, i.e., toothpaste, toothbrush, deodorant, razor, shaving cream, etc., will be provided to the inmate at no cost. Sanitary napkins for female residents must be provided at no cost upon request. Toilet paper and soap are to be provided to the resident for the duration of their stay without cost to the resident.

2. Basic laundry service will include free access to an adequate number of washers and dryers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:

Family Impact Statement

Promulgation of the LAC 22:I.Chapter 13 by the Department of Public Safety and Corrections, Corrections Services, will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the

family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed rule promulgation.

Interested persons may submit their comments in writing to Melinda L. Long, Attorney for Secretary Richard L. Stalder, LA Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804, until 4:30 p.m. on February 1, 2007.

Richard L. Stalder
Secretary

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

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

There is an indeterminable amount of estimated savings to state government, i.e., the Department of Public Safety and Corrections. For each offender that is referred to the residential facility (the "Academy") in lieu of incarceration, the Department would save \$22.39/day, assuming the offender would have been housed at the local level. Per offender, this is a savings of \$8,172.35/year. There is also indeterminable cost savings to the Department, if an offender was referred to the residential facility in lieu of being placed on probation/parole. However, a savings of \$2.12 a day/per offender is possible (or \$807.00/year/per offender).

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

There is no estimated effect on revenue collections of state or local governmental units.

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

There is an indeterminable amount of estimated benefits to a non-governmental group, i.e., private sector business ("the Academy") that will be housing state offenders in lieu of incarceration in a local jail. This housing will be a judicially mandated option to incarceration for individuals who have been arrested for the commission of a crime. The cost estimated with this housing is \$43/day per resident. The Academy has the capacity to house 192 residents. There will also be benefits for vendors who supply services for the Academy.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is an indeterminable positive estimated impact on competition and employment in the private sector due to the contractor ("the Academy") hiring 28 "full time" staffers and 4 "part time" staffers. Staff salaries are estimated to be \$713,800 per year. In addition, residents of the facility will be provided a full time job furnished by the Academy administration. The Academy will also provide (to be paid for by resident) vocational tech education and professional alcohol and drug counseling. The Academy residents are anticipated to have a profound effect in the workforce arena of unskilled to skilled labor. The residents being trained and employed will greatly reduce unemployment and help remove families from being on state and federal welfare rolls. The Academy residents are anticipated to compete with and against foreign laborers, legal and illegal, who are presently working throughout Louisiana. The Academy residents will increase the number of U.S. citizens that are being employed and trained. Furthermore, it will reduce the number of non-violent citizens that serve time in correctional facilities and as a result, save the state and its

citizens \$8,172.5 per inmate/per year. The economic impact to Jefferson Davis Parish (physical location of the Academy) and its surrounding area could exceed 2 million dollars yearly without any cost to the state or federal government.

B.E. "Trey" Boudreaux III
Undersecretary
0701#071

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

**Reporting Requirements for Category 3 or Higher Hurricane
(LAC 33:V.11101, 11103, and 11105)**

Editor's Note: This Notice of Intent is being republished to correct an error upon submission. The original proposal can be viewed on pages 2478-2480 of the December 20, 2006 edition of the *Louisiana Register*.

Under the authority of R.S. 32:1504, 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 regulations for reporting requirements of hazardous materials for Category 3 or higher hurricane in LAC 33:V.Subpart 2, 11101, 11103, and 11105 (Log #DPS001).

This proposed Rule provides a process for the reporting of information regarding hazardous materials that are in transit and/or temporarily stored at a facility and that could present a threat to human health and the environment if compromised during a Category 3 or higher hurricane. Hurricanes Katrina and Rita illustrated the need to be able to accurately account for all hazardous material in this state especially in times of emergency. The state must be aware of the exact nature, quantities, and location of all hazardous materials in this state prior to any potential release under these circumstances. This proposed Rule is being promulgated by the Department of Public Safety in collaboration with the Department of Environmental Quality. The basis and rationale for this Rule are to protect public health and the environment during times of emergency. 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 2. Department of Public Safety and
Corrections—Hazardous Materials**

**Chapter 111. Reporting Requirements for Category 3
or Higher Hurricane**

§11101. Purpose

A. The purpose of this Chapter is to establish procedures for the reporting of information regarding hazardous materials that are in transit and/or temporarily stored at a facility and that could present a threat to human health and the environment if compromised during a Category 3 or higher hurricane.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:1504.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 33:

§11103. Applicability

A. This Chapter applies to all persons who are engaged in the transportation of hazardous materials by railcars, vessels, or barges, or the temporary storage of hazardous materials in any storage vessel not permanently attached to the ground, that is within the confines of a parish affected, or projected to be affected, by a Category 3 or higher hurricane.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:1504.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 33:

§11105. Requirements for Reporting

A. Notification shall be given to the DPS, via electronic submittal, to the 24-hour Louisiana Emergency Hazardous Materials Hotline email address at emergency@la.gov within 12 hours of a mandatory evacuation order issued by the proper parish authorities.

B. Definitions

Hazardous Materials—those materials listed on the EHS list, 40 CFR Part 355, Appendix A.

Temporary Storage—the containment of hazardous materials in a container that is portable. This provision does not cover those hazardous materials that are stored in pipelines or any other storage vessel permanently attached to the ground.

C. Mechanism and Responsibilities

1. Within 12 hours of an order of evacuation issued by local parish authorities, persons subject to the provisions of this Chapter shall report the following:

a. the exact nature of, and the type, location, and relative fullness of the container (i.e., full, half-full, or empty) of all hazardous materials that are located within a parish subject to the evacuation order;

b. the primary and secondary contact person's phone, e-mail, and fax number; and

c. whether the facility will be sufficiently manned such that post-event assessments will be performed by company personnel (as soon as safely practicable) and that any releases and/or hazardous situations will be reported in accordance with existing Louisiana Department of Environmental Quality (LDEQ) and State Police reporting requirements.

2. For those materials that are stored, it shall be necessary to only report those hazardous materials that were not reported in the annual Superfund Amendments and Reauthorization Act (SARA) inventory report and those that are in excess of what is typically stored at the facility.

3. Within a reasonable period of time, persons subject to the provisions of this Chapter shall perform a post-event assessment of those hazardous materials that were actually present in the affected area and to what degree, if any, those materials were compromised by said event and their current condition.

4. Both the DPS and Louisiana Department of Environmental Quality (LDEQ) shall have access to this information.

D. This Chapter does not extinguish any obligation or supersede any other federal or state law requiring reporting of information on hazardous materials.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:1504.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 33:

A public hearing will be held on February 27, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed regulation. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by DPS001. Such comments must be received no later than March 6, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to Fax (225)-219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the Department of Environmental Quality, Public Records Center, at (225) 219-3168. Check or money order is required in advance for each copy of DPS001. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

Jill P. Boudreaux
Acting Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Reporting Requirements for Category 3 or Higher Hurricane

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

There will be no cost or savings to the state to implement this rule. Some additional paperwork may occur during the period of time for which the additional reporting is required.

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

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

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

Some additional paperwork may occur during the period of time for which the additional reporting is required for groups engaged in the transportation of hazardous materials or the temporary storage of hazardous materials in any storage vessel not permanently attached to the ground, that is within the confines of a parish affected, or projected to be affected, by a Category 3 or higher hurricane.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition or employment as a result of the proposed rule.

Jill P. Boudreaux
Acting Undersecretary
0701#089

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of the State Fire Marshal**

Code Standards (LAC 55:V.103 and 303)

In accordance with the provisions of R.S. 40:1563 relative to the authority of the Office of State Fire Marshal to promulgate and enforce rules, the Office of State Fire Marshal hereby proposes to amend the following Sections regarding adopted code standards, review of plans and building inspections.

**Title 55
PUBLIC SAFETY
Part V. Fire Protection**

Chapter 1. Preliminary Provisions

§103. General Provisions

A. It shall be the policy of the State Fire Marshal that in all instances or specifications provided in the statutes or in the codes referenced by the statutes, or by any specific references in administrative rulings by the State Fire Marshal, that the *Standard Building Code* published by the Southern Building Code Congress International, and the *International Building Code* published by the International Code Council, and the National Fire Codes published by the National Fire Protection Association as specifically identified in the following list, shall be used as the resource materials for determinations by the State Fire Marshal.

NFPA 18	2006 Edition	Standard on Wetting Agents
NFPA 20	2007 Edition	Standard for the Installation of Stationary Pumps for Fire Protection
NFPA 22	2003 Edition	Standard for Water Tanks for Private Fire Protection
NFPA 25	2002 Edition	Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems
NFPA 30	2003 Edition	Flammable and Combustible Liquids Code
NFPA 30A	2003 Edition	Code for Motor Fuel Dispensing Facilities and Repair Garages
NFPA 30B	2002 Edition	Code for the Manufacture and Storage of Aerosol Products
NFPA 31	2001 Edition	Standard for the Installation of Oil-Burning Equipment
NFPA 32	2004 Edition	Standard for Drycleaning Plants
NFPA 33	2007 Edition	Standard for Spray Application Using Flammable or Combustible Materials
NFPA 34	2007 Edition	Standard for Dipping and Coating Processes Using Flammable or Combustible Liquids
NFPA 37	2002 Edition	Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines
NFPA 42	2002 Edition	Code for the Storage of Pyroxylin Plastic
NFPA 45	2004 Edition	Standard on Fire Protection for Laboratories Using Chemicals
NFPA 51	2002 Edition	Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes
NFPA 51B	2003 Edition	Standard for Fire Prevention During Welding, Cutting, and Other Hot Work
NFPA 52	2006 Edition	Compressed Natural Gas (CNG) Vehicular Fuel Systems Code
NFPA 53	2004 Edition	Recommended Practice on Materials, Equipment, and Systems Used in Oxygen-Enriched Atmospheres
NFPA 54	2006 Edition	ANSI Z223.1-2002 National Fuel Gas Code
NFPA 55	2005 Edition	Standard for the Storage, Use, and Handling of Compressed Gases and Cryogenic Fluids in Portable and Stationary Containers, Cylinders, and Tanks
NFPA 58	2004 Edition	Liquefied Petroleum Gas Code
NFPA 59A	2006 Edition	Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)
NFPA 61	2002 Edition	Standard for the Prevention of Fires and Dust Explosions in Agricultural and Food Processing Facilities
NFPA 68	2002 Edition	Guide for Venting of Deflagrations
NFPA 69	2002 Edition	Standard on Explosion Prevention Systems
NFPA 70	2005 Edition	National Electrical Code
NFPA 72	2002 Edition	National Fire Alarm Code
NFPA 80	1999 Edition	Standard for Fire Doors and Fire Windows
NFPA 82	2004 Edition	Standard on Incinerators and Waste and Linen Handling Systems and Equipment
NFPA 88A	2002 Edition	Standard for Parking Structures
NFPA 90A	2002 Edition	Standard for the Installation of Air-Conditioning and Ventilating Systems
NFPA 90B	2006 Edition	Standard for the Installation of Warm Air Heating and Air-Conditioning Systems
NFPA 92A	2006 Edition	Recommended Practice for Smoke-Control Systems
NFPA 92B	2005 Edition	Guide for Smoke Management Systems in Malls, Atria, and Large Areas

NFPA 1	2006 Edition	Uniform Fire Code
NFPA 10	2002 Edition	Standard for Portable Fire Extinguishers
NFPA 11	2005 Edition	Standard for Low-, Medium-, and High-Expansion Foam
NFPA 12	2005 Edition	Standard on Carbon Dioxide Extinguishing Systems
NFPA 12A	2004 Edition	Standard on Halon 1301 Fire Extinguishing Systems
NFPA 13	2007 Edition	Standard for the Installation of Sprinkler System
NFPA 13D	2007 Edition	Standard for the Installation of Sprinkler Systems in On- and Two-Family Dwellings and Manufactured Homes
NFPA 13R	2007 Edition	Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height
NFPA 14	2007 Edition	Standard for the Installation of Standpipe and Hose Systems
NFPA 15	2007 Edition	Standard for Water Spray Fixed Systems for Fire Protection
NFPA 16	2003 Edition	Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems
NFPA 17	2002 Edition	Standard for Dry Chemical Extinguishing Systems
NFPA 17A	2002 Edition	Standard for Wet Chemical Extinguishing Systems

NFPA 96	2004 Edition	Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations
NFPA 99	2005 Edition	Standard for Health Care Facilities
NFPA 99B	2005 Edition	Standard for Hypobaric Facilities
NFPA 101	2006 Edition	Life Safety Code
NFPA 101A	2004 Edition	Guide on Alternative Approaches to Life Safety
NFPA 102	1995 Edition	Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures
NFPA 105	2003 Edition	Standard for the Installation of Smoke Door Assemblies
NFPA 110	2005 Edition	Standard for Emergency and Standby Power Systems
NFPA 111	2005 Edition	Standard on Stored Electrical Energy Emergency and Standby Power Systems
NFPA 140	2004 Edition	Standard on Motion Picture and Television Production Studio Soundstages and Approved Production Facilities
NFPA 150	2000 Edition	Standard on Fire Safety in Racetrack Stables
NFPA 160	2006 Edition	Standard for Flame Effects Before an Audience
NFPA 170	2006 Edition	Standard for Fire Safety Symbols
NFPA 204	2002 Edition	Standard for Smoke and Heat Venting
NFPA 211	2003 Edition	Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances
NFPA 220	2006 Edition	Standard on Types of Building Construction
NFPA 221	2006 Edition	Standard for Fire Walls and Fire Barrier Walls
NFPA 303	2006 Edition	Fire Protection Standard for Marinas and Boatyards
NFPA 307	2006 Edition	Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves
NFPA 407	2007 Edition	Standard for Aircraft Fuel Servicing
NFPA 409	2004 Edition	Standard on Aircraft Hangars
NFPA 415	2002 Edition	Standard on Airport Terminal Buildings, Fueling Ramp Drainage, and Loading Walkways
NFPA 418	2006 Edition	Standard for Heliports
NFPA 430	2004 Edition	Code for the Storage of Liquid and Solid Oxidizers
NFPA 432	2002 Edition	Code for the Storage of Organic Peroxide Formulations
NFPA 434	2002 Edition	Code for the Storage of Pesticides
NFPA 484	2006 Edition	Standard for Combustible Metals, Metal Powders, and Metal Dusts
NFPA 490	2002 Edition	Code for the Storage of Ammonium Nitrate
NFPA 495	2006 Edition	Explosive Materials Code
NFPA 654	2006 Edition	Standard for the Prevention of Fire and Dust Explosions from the Manufacturing, Processing, and Handling of Combustible Particulate Solids
NFPA 664	2002 Edition	Standard for the Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities
NFPA 701	2004 Edition	Standard Methods of Fire Tests for Flame Propagation of Textiles and Films
NFPA 703	2006 Edition	Standard for Fire Retardant Impregnated Wood and Fire Retardant Coatings for Building Materials
NFPA 750	2006 Edition	Standard on Water Mist Fire Protection Systems

NFPA 801	2003 Edition	Standard for Fire Protection For Facilities Handling Radioactive Materials
NFPA 820	2003 Edition	Standard for Fire Protection in Wastewater Treatment and Collection Facilities
NFPA 901	2006 Edition	Standard Classifications for Incident Reporting and Fire Protection Data
NFPA 909	2005 Edition	Code for the Protection of Cultural Resources
NFPA 914	2007 Edition	Code for Fire Protection of Historic Structures
NFPA 1031	2003 Edition	Professional Qualifications for Fire Inspector and Plan Examiner
NFPA 1123	2006 Edition	Code for Fireworks Display
NFPA 1124	2006 Edition	Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles
NFPA 1126	2006 Edition	Standard for the Use of Pyrotechnics before a Proximate Audience
NFPA 1221	2007 Edition	Standard for the Installation, Maintenance, and Use of Emergency Services Communications Systems
NFPA 1402	2002 Edition	Guide to Building Fire Service Training Centers
NFPA 1403	2002 Edition	Standard on Live Fire Training Evolutions
NFPA 1961	2002 Edition	Fire Hose
NFPA 1962	2003 Edition	Inspection, Care, and Use of Fire Hose
NFPA 2001	2004 Edition	Standard on Clean Agent Fire Extinguisher Systems

B. All inspections and other evaluations of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal for review shall be made utilizing new construction requirements set forth in the *Life Safety Code* published by the National Fire Protection Association and the "Special Provisions for High-Rise Building" Section of the *Standard Building Code* published by the Southern Building Code Congress International as follows.

Building Constructed or Remodeled	Life Safety Code Edition	Section / Standard Building Code Edition	Sections / International Building Code Edition
prior to 1/1/1975	1967	-	-
1/1/1975 to 12/31/1979	1973	518 / 1974 Chapter 4 revisions to 1973	-
1/1/1980 to 8/31/1981	1976	518 / 1974 Chapter 4 revisions to 1973	-
9/1/1981 to 8/31/1986	1981	506 / 1979	-
9/1/1986 to 2/18/1989	1985	506 / 1985	-
2/19/1989 to 5/31/1992	1988	506 / 1985	-
6/1/1992 to 1/4/1995	1991	506 / 1988	-
1/5/1995 to 5/31/1998	1994	506 / 1991	-
6/1/1998 to 6/30/2001	1997	412 / 1994	-
7/1/2001 to 12/31/2001	2000	412 / 1994	-
1/1/2002 to 6/30/2004	2000	412 / 1997	-
7/1/2004 to 9/30/2007	2003	-	-
after 10/1/2007	2006	-	-

C. All references to performance based criteria in the *Life Safety Code* shall only be considered by the Office of State Fire Marshal after an appeal of a decision has been timely made.

D. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:145 (February 1975), amended LR 5:468 (December 1979), LR 6:71 (February 1980), amended by the Office of the State Fire Marshal, LR 7:588 (November 1981), LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 15:96 (February 1989), LR 17:1114 (November 1991), LR 23:1688 (December 1997), LR 27:857 (June 2001), LR 27:2257 (December 2001), repromulgated LR 29:183 (February 2003), amended LR 30:1303 (June 2004), LR 33:

Chapter 3. Buildings

§303. Plans and Specifications for New Buildings

A. As of October 1, 2007, the plans and specifications for every structure built or remodeled in the state of Louisiana must be drawn in accordance with the requirements of the 2006 Edition of the *Life and Safety Code* (excluding Chapter 5) of the National Fire Protection Association. Chapter 5, Performance Based Option, may be used as a basis for appeal equivalency determinations.

B. - D. ...

E. Regarding "Building Rehabilitation," compliance in accordance with LAC 55:V.103.B shall be considered by the Office of State Fire Marshal as an equivalent alternative for compliance with the applicable existing chapter, where the applicable existing chapters are prescribed in the latest adopted NFPA 101 Life Safety Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:143 (February 1975), amended LR 5:468 (December 1979), LR 6:72 (February 1980), amended by the Office of the State Fire Marshal, LR 7:344 (July 1981), LR 7:588 (November 1981), LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 12:116 (February 1986), LR 15:96 (February 1989), LR 17:1115 (November 1991), LR 23:1692 (December 1997), LR 30:1305 (June 2004), LR 33:

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the

ability of the family or local government to perform the function as contained in the proposed rules.

Interested persons may submit written comments on these proposed amendments to Henry Fry at 8181 Independence Boulevard, Baton Rouge, LA 70806. Comments will be accepted through close of business February 15, 2007.

Jill Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Code Standards

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

Additional costs, to state or local governments, are not anticipated as a result of implementation of these rules. The changes being made will update the editions of fire protection codes. The cost for the updated Code books is a part of the budget request and have already been purchased for these editions.

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

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

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

There will be no additional cost or benefit to affected persons that this office regulates or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Jill P. Boudreaux
Undersecretary
0701#050

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

Earned Income Tax Credit and Tax Assistance Program for Filers without Children (LAC 67:III.5801-5805)

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to adopt LAC 67:III, Subpart 17, Chapter 58, the Earned Income Tax Credit and Tax Assistance Program for Filers without Children.

Pursuant to Executive Order KBB 2005-17, Section 2C, the agency proposes to adopt Subpart 17, Chapter 58, the Earned Income Tax Credit and Tax Assistance Program for Filers without Children, to provide a tax filing service offered free of charge to low-income taxpayers. This program serves Earned Income Tax Credit (EITC) filers who are not TANF-eligible.

The federal EITC, a tax credit for low-income individuals and families whose income derives from employment, is the nation's largest anti-poverty program. Over 10 percent of low-income filers in Louisiana who qualify for EITC do not claim it due to lack of awareness and education on income tax issues. Of the number of filers who claim the credit, a

large number needlessly pay fees disproportionate to their income level to access their own tax refunds. The Earned Income Tax Credit and Tax Assistance Program for Filers without Children educates low-income taxpayers on eligibility for EITC and other credits, and provides a free tax filing service to those who can least afford to pay a commercial preparer. In improving Louisiana's access to and retention of a major federal tax credit for low-wage workers, the program rewards work while reducing poverty.

An Emergency Rule signed November 1, 2006, effected these changes and was published in the November 2006 issue of the *Louisiana Register*.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 17. Earned Income Tax Credit and Tax Assistance Program for Filers without Children

Chapter 58. Earned Income Tax Credit and Tax Assistance Program for Filers without Children

Subchapter A. Designation and Authority of State Agency

§5801. Authority

A. The Earned Income Tax Credit and Tax Assistance Program for Filers without Children Program is established in accordance with Executive Order KBB 2005-17 Louisiana Solutions to Poverty Network Council, effective November 1, 2006, to provide a tax filing service offered free of charge to low-income taxpayers.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 2005-17 Louisiana Solutions to Poverty Network Council.

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

§5803. Administration

A. The Earned Income Tax Credit and Tax Assistance Program for Filers without Children Program shall be administered by the Department of Social Services, Office of Family Support through contracts with outside entities.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 2005-17 Louisiana Solutions to Poverty Network Council.

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

Subchapter B. Eligibility

§5805. Conditions of Eligibility

A. Eligibility for services is limited to:

1. individuals without minor children who meet the U.S. Department of the Treasury Internal Revenue Service's Earned Income Tax Credit income eligibility standard; or

2. married couples without minor children who meet the U.S. Department of the Treasury Internal Revenue Service's Earned Income Tax Credit income eligibility standard.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 2005-17 Louisiana Solutions to Poverty Network Council.

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

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule should have no impact on family stability.

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? This Rule should have no impact on family functioning.

4. What effect will this have on family earnings and family budget? By increasing low-income workers' access to a major federal tax credit, this Rule may have a positive effect on a family's earnings and budget.

5. What effect will this have on the behavior and personal responsibility of children? The Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

All interested persons may submit written comments through February 22, 2007, to Adren O. Wilson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

A public hearing on the proposed Rule will be held on Thursday, February 22, 2007, at the Department of Social Services, Iberville Building, 627 North Fourth Street, Seminar Room I-129, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Ann S. Williamson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Earned Income Tax Credit and Tax Assistance Program for Filers without Children

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

This rule allows the Department of Social Services (DSS) to establish an Earned Income Tax Credit and Tax Assistance Program for Filers Without Children. This program will provide a tax filing service, offered free of charge, to low-income taxpayers who are eligible for EITC but not eligible for the TANF-funded free tax preparation service. This program is expected to serve approximately 5,000 Louisiana residents.

For FY 06/07, FY 07/08, and FY 08/09, the implementation costs for the EITC and Tax Assistance Program for Filers Without Children are estimated to be \$150,000. For FY 06/07, DSS will utilize State General Fund that was allocated in the Office of Family Support budget for TANF State Maintenance of Effort. For FY 07/08 and FY 08/09, State General Fund will have to be appropriated by the legislature to continue this program.

The cost of publishing the rule is estimated to be \$160. This is a one-time cost that is routinely included in the agency's annual budget. The total estimated implementation cost for FY 06/07 is approximately \$150,160.

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

It is anticipated that this program will produce an increase in revenue for state and local governmental units in the form of sales tax based on the assumption that the average \$300 received in EITC will be spent by individuals in their communities. The amount of sales tax revenue that would be generated is not determinable.

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

There are no anticipated costs to any persons or nongovernmental groups resulting from this proposed rule. Economic benefits to low-income working individuals (the directly affected group) include greater dollar amounts of tax refunds claimed and retained as a result of access to a free tax filing service. Additionally, recipients of the service will save an average of \$150 each in commercial tax preparation fees, resulting in a total savings of \$750,000 to Louisiana residents with the greatest financial need.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule has no impact on competition or employment.

Adren O. Wilson
Assistant Secretary
0701#068

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support
Support Enforcement Services Program**

**Support Enforcement Services Program—Passport Denial
(LAC 67:III.2547)**

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to adopt Title 67, Part III, Subpart 4, Support Enforcement Services (SES), Chapter 25, Subchapter L, Section 2547, Passport Denial, which provides for the denial, revocation, and restriction of a passport to individuals who owe past due child support.

Section 370 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (P.L. 104-193), amended the Social Security Act by adding Subsection 452(k) providing for the denial, revocation, and restriction of United States passports to individuals who owe past due child support amounts in excess of the federally-mandated threshold. The Deficit Reduction Act of 2005 amends these provisions and states that any person certified by the Secretary of Health and Human Services (HHS) to the Secretary of State as owing past due child support in an amount exceeding \$2,500 is ineligible to receive a United States passport.

This amendment is necessary to maximize collections and ensure Louisiana's continued compliance with federal regulations.

Title 67

SOCIAL SERVICES

Par III. Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter L. Enforcement of Support Obligations

§2547. Passport Denial

A. SES shall administratively collect past due child support in accordance with the Passport Denial Program. Individuals owing past due child support amounts in excess of the federally-mandated threshold will be automatically certified to the United States Department of State for passport denial unless the state agency certifying their past due support amount excludes them from this remedy.

B. SES will send an advance notice to each non-custodial parent owing past due child support whose name will be submitted for the Passport Denial Program. This notice will advise the non-custodial parent of the right to request an administrative review of the past due support with the state(s) that has certified them for the debt.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 652(k)(1), 42 USC 654(31) and DCL-06-14.

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

Family Impact Statement

1. What effect will this Rule have on the stability of the family? Implementation of this Rule should have a positive impact on family stability, as it will improve the collection of past due child support.

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 Rule have on the functioning of the family? This Rule should positively effect family functions by increasing the amount of past due child support collected.

4. What effect will this have on family earnings and family budget? This Rule should have no effect on family earnings but may have a positive effect on family budgets by allowing for collection of past due child support.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

Interested persons may submit written comments by February 22, 2007 to Adren O. Wilson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-90656. He is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on Thursday, February 22, 2007, at the Department of Social Services, Iberville Building, 627 North Fourth Street, First Floor, Room 129, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit

data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Ann Silverberg Williamson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Support Enforcement Services
Program—Passport Denial**

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

The proposed rule will allow the State to implement federal law for passport denial to individuals who owe past due child support in an amount exceeding the \$2,500 federally-mandated threshold amount. This will bring state policy in line with federal law.

The proposed rule would result in the cost of publishing rulemaking and printing policy, which is estimated to be approximately \$600. This is a one-time cost that is routinely included in the agency's budget.

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

This rule is estimated to have no effect on revenue collections of any governmental units.

**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. Adoption of this Rule may have a favorable economic impact on the custodial parties by increasing arrears collections from individuals who owe past due child support.

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

The proposed rule will have no impact on competition and employment.

Adren O. Wilson
Assistant Secretary
0701#088

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

TANF Homeless Initiative (LAC 67:III.5589)

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to adopt LAC 67:III, Subpart 15, Chapter 55, §5589, Homeless Initiative, as a new TANF Initiative.

Pursuant to Act 17 of the 2006 Regular Session of the Louisiana Legislature, the agency proposes to adopt the Homeless Initiative to end the cycle of homelessness in Louisiana by stabilizing homeless families and aiding these families in establishing permanent housing and becoming self-sufficient.

This Rule was effected December 1, 2006, by a Declaration of Emergency published in the December 2006 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

§5589. Homeless Initiative

A. Effective December 1, 2006, the Office of Family Support shall enter into contracts with public agencies, non-profit organizations, or for-profit organizations to end the cycle of homelessness in Louisiana by providing services to homeless families which include but are not limited to comprehensive case management, educational and employment opportunities for adult participants, community referrals, life skill modules, housing options and direct services to provide for basic needs.

B. These services meet the TANF goals to provide assistance to needy families so children may be cared for in their own homes or in the homes of relatives.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family consists of minor children, custodial parents, legal guardians, or caretaker relatives of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 17, 2006 Reg. Session

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

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The purpose of this initiative is to stabilize families by aiding them in establishing permanent housing and providing resources to help them become self-sufficient.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? An effect on the authority and rights of persons regarding the education and supervision of their children is not foreseen at this time.

3. What effect will this have on the functioning of the family? As a result of families participating in the Homelessness program, a positive effect on the functioning of the family should occur due to families being able to receive comprehensive case management, community referrals, life skill modules, four month service delivery recovery plan, etc.

4. What effect will this have on family earnings and family budget? Upon beginning the homelessness program, participants have very little, if any, earnings. An increase in family earnings and is expected because of the resources

families will receive to become self-sufficient and obtain permanent housing.

5. What effect will this have on the behavior and personal responsibility of children? An effect on the behavior and personal responsibility of children is not foreseen at this time.

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, February 22, 2007 to Adren O. Wilson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

A public hearing on the proposed Rule will be held on Thursday, February 22, 2007, at the Department of Social Services, Iberville Building, 627 North Fourth Street, Seminar Room I-129, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Ann Silverberg Williamson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: TANF Homeless Initiative

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

This rule will allow the Department of Social Services to implement the TANF Homeless Initiative to end the cycle of homelessness in Louisiana. This program will serve approximately 310 individuals and will provide services that will include, but are not limited to, comprehensive case management, educational and employment opportunities for adult participants, community referrals, life skill modules, housing options and direct services to provide for basic needs.

The implementation costs for the Homeless Initiative are estimated to be \$1,000,000 for FY 06/07, FY 07/08 and FY 08/09. For FY 06/07 the initiative is being funded with \$750,160 from Louisiana's TANF Block Grant and \$250,000 state maintenance-of-effort funds. For FY 07/08 and FY 08/09, this initiative will be funded with 100% Louisiana TANF Block Grant Funds.

The cost of publishing the rule is estimated to be \$160. This is a one-time cost that is routinely included in the agency's annual budget. The total estimated implementation cost for FY 06/07 is approximately \$1,000,160.

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

This rule will have no effect on revenue collections of state or local governmental units.

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

An increase in family earnings is expected because of the resources (i.e., educational and employment opportunities, housing options, and direct services to provide for basic needs) families will receive to become self-sufficient and obtain permanent housing.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The rule will have no impact on competition and employment.

Adren O. Wilson
Assistant Secretary
0701#069

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

TANF Initiatives—Earned Income Credit (EITC) Program (LAC 67:III.5581)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 15, Chapter 55, §5581, Earned Income Tax Credit Program.

Pursuant to Act 16 of the 2005 Regular Legislative Session, and Act 17 of the 2006 Regular Legislative Session, the agency proposes to amend the TANF goal being met by the services provided under §5581, Earned Income Tax Credit (EITC) Program, from TANF Goal 4 to TANF Goal 2, and to establish income eligibility factors for the services.

Additionally, the program is being amended to include financial literacy as an additional service.

These changes were effected by an Emergency Rule signed November 1, 2006, and published in the November 20, 2006 issue of the *Louisiana Register*.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5581. Earned Income Tax Credit (EITC) Program

A. The agency has entered into contracts to provide public awareness, education and targeted outreach strategies regarding the benefits of claiming the Earned Income Tax Credit (EITC) Program, state tax credit programs, and free taxpayer assistance effective November 1, 2006, to EITC-eligible families, and to provide financial literacy to families receiving services under this program. Strategies include collaboration with the Internal Revenue Service, various state departments and the targeted expansion of existing outreach activities to assure that free taxpayer assistance to EITC-eligible families is available statewide.

B. These services meet the TANF goal, effective November 1, 2006, to end dependence of needy parents by promoting job preparation, work, and marriage.

C. Effective November 1, 2006, eligibility for services is limited to those families with minor children who meet the Internal Revenue Service's EITC income eligibility standards.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 1, 2004 Reg. Session, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 31:1610 (July 2005), amended LR 33:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? Economic benefits to low-income working families (the directly affected group) include the potential for long-term family financial stability due to increased financial knowledge as a result of financial literacy trainings.

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? This Rule should have no impact on family functioning.

4. What effect will this have on family earnings and family budget? Adding financial literacy as a component of the EITC Program may have a positive effect on a family's earnings and budget.

5. What effect will this have on the behavior and personal responsibility of children? The Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, these programs are strictly an agency function.

All interested persons may submit written comments through February 22, 2007, to Adren O. Wilson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

A public hearing on the proposed Rule will be held on Thursday, February 22, 2007, at the Department of Social Services, Iberville Building, 627 North Fourth Street, Seminar Room I-129, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Ann S. Williamson
Secretary

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

**RULE TITLE: TANF Initiatives—Earned Income
Credit (EITC) Program**

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

This rule places Earned Income Tax Credit (EITC) Outreach and Tax Assistance programs under TANF Goal 2, "to end dependence of needy parents by promoting job preparation work, and marriage", provides for a financial literacy-training component to be included in the program, and defines EITC eligible families.

There are no immediate costs to any state or local governmental units other than the one-time cost of publishing

rulemaking, which is estimated to be approximately \$160. These costs are routinely included in the agency's annual budget.

There are no estimated savings to state or local governmental units resulting from this rule.

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

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

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

Economic benefits to low-income working families (the directly affected group) include the potential for long-term family financial stability due to increased financial knowledge as a result of financial literacy trainings. There are no anticipated costs to any persons or nongovernmental groups as a result of this rule.

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

The proposed rule has no impact on competition or employment.

Adren O. Wilson
Assistant Secretary
0701#070

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Weights and Standards**

**Violation Ticket Review Committee
(LAC 73:I.1201 and 1216)**

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 Chapter 12 of Title 73 entitled "Violation Ticket Review Committee", in accordance with R.S. 32:389.

Title 73

WEIGHTS, MEASURES AND STANDARDS

Part I. Weights and Standards

Chapter 12. Violation Ticket Review Committee

**§1201. Composition of Violation Ticket Review
Committee**

A. One representative of the Office of Management and Finance to be appointed by the undersecretary of management and finance.

B. One representative of the DOTD Legal Section to be appointed by the general counsel.

C. One representative of the Office of Operations to be appointed by the assistant secretary.

D. Four representatives of the Office of Engineering to be appointed by the chief engineer.

E. The DOTD Weights and Standards Administrator or his designee shall be a non-voting member.

F. Four of seven voting members present is a quorum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389 (D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and

Standards, LR 22:372 (May 1996), amended LR 28:522 (March 2002), LR 33:

§1216. Consideration by Review Panel

A. - C. ...

D. The review panel shall be convened upon the motion of the chairman a minimum of every 90 days. The department shall provide all information necessary or required concerning the tickets reviewed by the review panel. The protestor, upon his request, may appear at the meetings of the review panel.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389 (D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:523 (March 2002), LR 33:

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this Notice of Intent. Such comments should be submitted to Denny Silvio, Weights and Standards Administrator, P.O. Box 94042, Baton Rouge, LA 70804-9052, (504) 377-7100.

Johnny B. Bradberry
Secretary

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

RULE TITLE: Violation Ticket Review Committee

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

There will be no implementation costs or savings to state or local governmental units as a result of this rule change. It merely adds three voting members to the existing violation ticket review committee. All members serve on the committee as part of their current job responsibilities. The rule also extends from 60 to 90 days the intervals for meetings of the third tier of review, reflecting the necessity for fewer meetings at that level.

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

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

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

There should be no costs or economic benefits to directly affected persons or non-governmental groups as a result of this rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment as a result of this rule change.

Johnny B. Bradberry
Secretary
0701#051

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
Board of Trustees of the Louisiana State Employees'
Retirement System**

Sunset (LAC 58:I.3519)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes to repeal LAC 58:I.3519, regarding the sunset date for the Optional Retirement Plan ("ORP"). The repeal is proposed because that date has been changed through legislation, rendering the Rule obsolete. This proposed Rule change complies with and is enabled by R.S. 11:515.

No preamble for this proposed Rule is necessary.

Title 58

RETIREMENT

Part I. Louisiana State Employees' Retirement System

Chapter 35. Optional Retirement Plan

§3519. Sunset

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1492 (July 2000), amended LR 29:1121 (July 2003), repealed LR 33:

Family Impact Statement

Act 923 of 2004 made changes to the Optional Retirement Plan of LASERS and established a new sunset date of December 7, 2007, after which no new members will be allowed to enter the plan. The proposed Rule change repeals LAC 58:I.3519 in its entirety as it is now obsolete. This proposed Rule change 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 Rules.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., March 2, 2007, to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement System, P.O. Box 44213, Baton Rouge, LA 70804.

Cindy Rougeou
Executive Director

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

RULE TITLE: Sunset

- 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 change.
- 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 change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
La. R.S. 11:502.2 supersedes LAC 58:I.3519, setting out a sunset date of December 07, 2007; hence, repeal of this regulation (containing an older, now obsolete sunset date) will not directly affect any persons or non-governmental groups. Consequently, there are no associated costs or economic benefits.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition or employment in the public or private sectors is anticipated to result from the proposed rule change.

Cindy Rougeou
Executive Director
0701#056

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
Board of Trustees of the Louisiana State
Employees' Retirement System**

**Voluntary Deductions from Retiree Benefits Payroll
(LAC 58:I.1101 and 1103)**

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes to amend LAC 58:I.1101 and LAC 58:I.1103, which provide for voluntary deductions by LASERS retirees from their retirement benefits. They are being amended in order to comply with the Pension Protection Act of 2006 by allowing additional choices of insurance through an enhanced array of vendors. These proposed Rule changes comply with and are enabled by R.S. 11:515.

Recently, the United States Congress enacted the Pension Protection Act of 2006, which affects LASERS because its membership is made up in part of certain public safety retirees covered under the Act. LASERS must provide these persons with the opportunity for a tax-free distribution of up to \$3000 per year for the payment of accident, health or long-term care insurance.

No preamble for these proposed Rules is necessary.

**Title 58
RETIREMENT**

**Part I. Louisiana State Employees' Retirement System
Chapter 11. Voluntary Deductions from Retiree
Benefits Payroll**

**§1101. Application Process for Voluntary Payroll
Deduction**

A. Application shall be made by the company, corporation, or organization which is the provider of coverage, product, service, or recipient of monies and shall be signed by two officers of the applicant company, corporation, or organization. The completed application shall be submitted to LASERS.

B. The following type providers of services shall be considered for approval:

1. the State Group Benefits program;
2. the group insurance plan administered by the Department of Employment and Training;
3. the Retired State Employees' Association;
4. general insurance companies and other providers that are included on the annual listing maintained by the Office of State Uniform Payroll;
5. credit unions formed for the primary purpose of serving state employees that have a payroll deduction for employees of the members' agencies;
6. other member or retiree associations approved by the board of trustees;
7. vendors receiving payment through voluntary deductions on the effective date of these rules; and
8. other insurance companies approved by the board of trustees.

C. Applicant shall designate a coordinator to act as primary contact with LASERS for resolution of invoicing, refund, and reconciliation problems and resolving claims problems for retirees.

D. All vendors shall file annual renewal applications with LASERS.

E. Applications shall be received by LASERS between June 1 and July 30 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), LR 33:

§1103. Applicant and Vendor Requirements

A. General insurance vendors shall meet the requirements established by the Division of Administration and shall either be included on the annual listing maintained by the Office of State Uniform Payroll or approved by the board of trustees.

B. Any provider who qualifies to submit an application under §1101.B.5 or B.7 above shall meet the regulatory requirements of the appropriate federal or state regulatory agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), LR 33:

Family Impact Statement

This proposed 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 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 Rules.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., March 02, 2007, to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement System, P.O. Box 44213, Baton Rouge, LA 70804.

Cindy Rougeou
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Voluntary Deductions from Retiree Benefits Payroll

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 are directly affected are certain retired public safety officers. An eligible retired public safety officer is an individual who, by reason of disability or attainment of normal retirement age, is separated from service as a public safety officer as determined under the Pension Protection Act of 2006. The proposed rule amendments give affected persons an opportunity for a tax-free distribution of up to \$3000 per year from LASERS to a provider of accident, health or long-term care insurance. No costs to affected persons are anticipated to result from the proposed rule amendments. There may be benefits to non-governmental groups, such as insurance providers, but LASERS cannot provide an estimate at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition or employment in the public or private sectors could benefit from the proposed rule amendments. LASERS cannot estimate this potential impact at this time.

Cindy Rougeou
Executive Director
0701#057

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Paddlefish (LAC 76:VII.137)

The Wildlife and Fisheries Commission hereby advertises its intent to amend the following proposed Rule on paddlefish (*Polyodon spathula*) in portions of Louisiana. Authority to establish these regulations is vested in the commission by R.S. 56:497(C).

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 Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§137. Paddlefish

A. The incidental take and possession of paddlefish (*Polyodon spathula*), commonly called spoonbill catfish, shall be regulated by the following provisions. Paddlefish as referred herein shall include roe and any parts thereof.

1. Properly licensed recreational fishermen using legal recreational gear may take paddlefish as per the following provisions. No person shall take or possess paddlefish in violation of any of the provisions herein.

a. Area—the taking or possession of paddlefish is closed in all saltwater areas of the state and in border waters shared with Texas.

b. All possessed paddlefish must be dead. The possession or transportation of live paddlefish is prohibited.

c. All paddlefish possessed on the waters of the state shall be maintained intact.

d. No person shall possess paddlefish eggs on the waters of the state which are not fully attached to the fish.

e. Daily Take and Possession Limit—the daily take and possession limit of paddlefish is two per person.

f. Maximum Size Limit—all paddlefish greater than 30 inches (lower jaw fork length) must be returned to the water immediately. Lower jaw fork length is the distance from the tip of the lower jaw to the mid-line of the caudal fin.

2. The commercial take and possession of paddlefish is prohibited. No person shall purchase, sell, barter, exchange or trade or attempt to purchase, sell, barter or trade paddlefish, their eggs or parts thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:325.C. and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 12:368 (June 1986), LR 15:868 (October 1989), amended by the Department of Wildlife and Fisheries, Office of Fisheries, LR 18:978 (September 1992), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 33:

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments on the proposed Rule to Gary Tilyou, Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., March 6, 2007.

Terry D. Denmon
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Paddlefish

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation costs or savings to state or local governmental units are anticipated. Implementation and enforcement of the proposed rule will be carried out using existing staff.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will have no effect on revenue collections of state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule may directly benefit freshwater recreational fishermen who choose to retain incidentally caught paddlefish. Recreational fishermen will be allowed to take and possess two paddlefish per day that are less than or equal to 30 inches in length from the tip of the lower jaw to the mid-line of the caudal fin. Economic benefits cannot be quantified using existing data.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule will have no impact on competition and employment in the public or private sectors.

Wynette Kees
Deputy Undersecretary
0701#038

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Special Bait Dealer's Permit (LAC 76:VII.329)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend a Rule, LAC 76:VII.329, which provides for a special bait dealer's permit program. Authority to establish these regulations is vested in the commission by R.S. 56:497(C). The proposed Rule is attached and made a part of this Notice of Intent.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing

of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery §329. Special Bait Dealer's Permit

A. Policy. The special bait dealer's permit is intended solely for the benefit of the recreational fishing public which desires to use live shrimp and live croaker as bait during the closed season between the spring and fall shrimp seasons. Its purpose is to allow the uninterrupted operation of those commercial establishments which sell live bait shrimp and live croaker to the fishing public during the spring and fall shrimp season. The permit is not intended for the direct use of recreational fishermen, charter boats, commercial fishermen who sell dead shrimp or croaker, or for any other entity which may wish to catch shrimp or croaker for their own use during the closed season.

B. Application

1. Applications for the special bait dealer's permit will be accepted from January 1 through April 30 of each year. All applications should be mailed to the department via certified mail.

2. Applications will be accepted only from the owner of an existing business which sells or plans to sell live bait to recreational fishermen.

3. Applications must be notarized and made on forms provided by the department; all information requested must be provided before the application will be processed.

4. Applicants must show proof of having acquired all necessary licenses and permits before the permit will be issued. This includes, if relevant, boat registration, vessel license, gear license, commercial fishing licenses, and name of fisherman; wholesale/retail seafood dealers license, state sales tax number, and a copy of the applicant's and the fisherman's valid drivers license. A background check for wildlife violations of the applicant and the fisherman will be made. Any person convicted of any Class 2 or greater wildlife or fisheries violation within the previous three years prior to the date of application shall not qualify to obtain a special bait dealer's permit or be onboard any vessel engaged in permitted activities.

5. Beginning in 2008, applicant must post a \$1,000 cash bond before the permit is issued. This bond will be forfeited if the permittee, his employee, or his contractor violates any provision of the rules and regulations concerning the special bait dealer's permit or if the permittee, his employee, or his contractor violates any commercial fishing law or regulation while operating under the permit.

6. Before the permit is issued an agent of the department must inspect the facilities of the applicant and verify that the applicant is operating a commercial establishment which sells live shrimp or live croaker to the fishing public for use as bait, and that the applicant does have facilities to maintain live shrimp or croaker. Notice to the public must be posted that live bait shrimp or croaker are available for sale. The applicant must have onshore facilities, including tanks with a minimum capacity of 500 gallons, available to hold live shrimp or live croaker. These tanks

must have provisions for aeration and/or circulation of the water in which live shrimp or croaker are held prior to sale. In determining total tank capacity of onshore facilities, the agent shall not count any tank with a capacity of less than 50 gallons.

7. Only the applicant, his designated employee, or his contractor may operate under the permit. At the time of application, the applicant will specify the vessel and who will be working under the permit. Should the vessel or these persons change, the applicant shall submit an amended application listing the vessel or those persons and be in receipt of an approved amended permit before the new vessel or persons operate under the permit. The permit is not transferable to any other person or vessel. The entire original permit must be carried on the vessel while in operation.

8. No person shall transfer any shrimp or croaker taken under a permit from one vessel to another.

C. Operations

1. Only the vessel and captains listed in the permit shall be used with the permit. Live wells, aeration tanks, and other vessel facilities to maintain live shrimp or croaker must be carried on or built into this vessel; it must be used for both taking and transporting the live shrimp or croaker. The vessel must have a minimum of one compartment or tank with a minimum capacity of 50 gallons. No other vessel may be used under the permit. Signs which identify the vessel as working under the special bait dealer's permit shall be posted on the vessel. These signs shall be visible from either side of the vessel and from the air; the word "BAIT" and the permit number shall be placed on these signs in letters at least 12 inches high.

2. Permitted gear is limited to one trawl not to exceed 25 feet along the cork line 33 feet along the lead line or two skimmer nets having an individual net frame size not more than 12 and 1/2 feet measured horizontally or 12 feet measured vertically or 17 feet 4 inches measured diagonally. These are the only gears which can be used or carried aboard the permitted vessel while the vessel is operating under the permit; no other commercial fishing gear may be on the vessel when it is being used under permit.

3. No more than two gallons of dead shrimp or croaker or combination thereof may be aboard the vessel while it is operating under the permit. All dead shrimp or croaker or combination thereof in excess of two gallons must be immediately returned to the water. Shrimp or croaker dying in onshore holding facilities may be sold for bait use only, in lots not to exceed 16 ounces in weight.

4. Bait shrimp or croaker may be taken only from official sunrise to official sunset; no night fishing is allowed under this permit.

5. The entire original permit must be in the possession of the person operating the vessel while it is engaged in taking shrimp or croaker under the terms of the permit.

6. Each time the permit is used the permittee must notify the department by contacting the communications section on the designated toll free telephone number provided on the permit and recording the confirmation number received. Before the vessel departs the dock under

the permit, the department must be advised of the time of departure and the sub-basin code corresponding to the department's trip ticket sub-basin map in which trawling or skimming will take place; immediately after the permitted vessel returns to the dock the department must be notified of the time of return by contacting the communications section on the designated toll free telephone number provided on the permit.

7. The permittee shall maintain an up-to-date record of the activities conducted under the permit on forms provided by the department for that purpose. These records shall be kept onboard the vessel and made available for inspection by agents of the department upon request by said agents at any time and shall include the permittee's name and permit number, date, departure time, fishing location, gear used, confirmation number, return time, and number of live shrimp or live croaker harvested. All applicable record information shall be completed before fishing operations begin. In addition, any agent of the department shall be allowed to make an on site inspection of any facilities operating under the permit, at any time. Permittee shall submit to the department, not later than September 1 following the live bait season, this record of permit activities on forms provided by the department. Nothing herein this Section shall exempt the permittee from trip ticket reporting requirements as provided for in R.S. 56:306.4.

D. Penalties

1. No person shall violate any provision of this Section. Violations of any provision of this Section shall constitute a Class 4 violation as defined in R.S. 56:34.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 56:326.3 and 56:497(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, and Wildlife and Fisheries Commission, LR 3:210 (April, 1977), amended LR 15:867 (October, 1989), LR 19:215 (February, 1993), LR 23:86 (January, 1997), LR 33:

Family Impact Statement

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments relative to the proposed Rule to Martin Bourgeois, Marine Fisheries Biologist, Marine Fisheries Division, Box 98000, Baton Rouge, LA 70898-9000, prior to Monday, March 5, 2007.

Terry D. Denmon
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Special Bait Dealer's Permit

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

No implementation costs or savings to state or local governmental units are anticipated. Implementation and enforcement of the proposed rule amendment will be carried out using existing staff.

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

The proposed rule amendment will have no effect on 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 amendment is anticipated to provide some economic benefits to Special Bait Dealer's Permit holders and their vessel captains by being allowed to use skimmer nets to harvest live bait. Studies have indicated that skimmer nets are one of the most efficient gears used to harvest live shrimp in shallow water areas, resulting in lower harvest costs and increased harvest per unit effort, compared to the current allowable gears.

Recreational fishermen may also benefit from efficiency associated with the use of skimmer nets through lower live bait prices.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule amendment is anticipated to have little or no impact on competition and employment in the public or private sectors.

Wynette Kees
Deputy Undersecretary
0701#037

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JANUARY – DECEMBER 2006

LAC Title	Part.Section	Effect	Location LR 32 Month Page	LAC Title	Part.Section	Effect	Location LR 32 Month Page	
4	III.101,103,112,119,127,131	Amended	Jan. 84	28	IX.103,105,107,302,303,305	Amended	Mar. 386	
	III.102,106,114,122	Adopted	Jan. 84		IX.307,311,317,319	Amended	Mar. 386	
	III.105,107-111,113,115-117	Repealed	Jan. 84		IX.325,327,501	Repromulgated	Mar. 386	
	III.121,123-125,129,133-135	Repealed	Jan. 84		XXI.501,507,511,521,523,527	Amended	July 1219	
	III.137-139	Amended	Jan. 84		XXXIII.101,301,305,315,505,507	Amended	June 1030	
	VII.Chapter 23	Adopted	Nov. 2045		XXXIII.701,707,717,901	Amended	June 1030	
	VII.Chapter 25	Adopted	Nov. 2053		XXXVII.1901	Amended	Mar. 391	
XV.Chapter 7	Adopted	Nov. 2052	XLIX.Chapters 1,3,5,11,13,17	Amended	Aug. 1417			
7	XXIII.125	Amended	May 794	XLIX.111	Amended	Nov. 2044		
	XXIII.125	Repromulgated	June 1011	XLIX.Chapter 7	Amended	May 801		
	XXV.101,107,113,115,121	Amended	May 796	XLIX.Chapters 21,23,25,31	Amended	Aug. 1417		
	XXV.101,107,113,115,121	Repromulgated	June 1015	LXXIX.109,303	Amended	Aug. 1416		
	XXIX.117	Amended	Jan. 78	LXXIX.109,303	Amended	Dec. 2237		
	XXIX.117	Amended	June 1010	LXXIX.110	Adopted	Dec. 2237		
	XXXIII.101-125	Amended	June 1011	LXXXIII.Chapters 3,5,7,14,17,21	Amended	June 1017		
	XXXIX.701	Amended	Oct. 1782	LXXXIII.301	Amended	Nov. 2035		
	XLI.Chapter 3	Adopted	May 794	LXXXIII.301,303	Amended	Nov. 2034		
	10	I.1301	Adopted	Nov. 2055	LXXXIII.Chapters 4,6,24	Adopted	June 1017	
XIII.1301-1311		Adopted	Nov. 2055	LXXXIII.Chapter 35,43	Amended	June 1017		
XV.Chapter 17		Adopted	May 837	LXXXIII.4101,4103	Amended	June 1017		
13		I.Chapter 33	Adopted	Feb. 228	LXXXIII.4104	Adopted	June 1017	
		I.Chapter 33	Amended	Sept. 1594	LXXXIII.4301	Amended	Apr. 543	
19	VIII.Chapters 1 and 3	Adopted	Feb. 229	LXXXIII.Chapter 45	Adopted	Aug. 1412		
	VIII.Chapters 11 and 13	Adopted	June 1044	LXXXIII.4527	Amended	Nov. 2035		
22	I.103	Amended	Dec. 2270	XCI.107,109,309	Amended	Oct. 1839		
	I.107	Amended	June 1069	CV.Chapters 1-27	Adopted	Apr. 555		
	I.107	Amended	July 1247	CXI.107,305,307,309,313,315	Amended	Feb. 232		
	I.305	Amended	Feb. 249	CXI.312, 316	Adopted	Mar. 390		
	I.316	Amended	Mar. 406	CXI.701,1101,1115,1141,1151	Amended	Feb. 232		
	I.701	Adopted	Jan. 108	CXI.1153,1301,1313,1335,1345	Amended	Feb. 232		
	I.703	Adopted	Jan. 102	CXI.1347,1349,1351,1355,1501	Amended	Feb. 232		
	I.705	Adopted	Apr. 640	CXI.1351	Amended	Mar. 390		
	I.707	Adopted	Aug. 1462	CXI.1701,1901,2501,2701	Amended	Feb. 232		
	I.721	Adopted	Jan. 107	CXI.2001	Adopted	Feb. 232		
	I.761	Adopted	Jan. 101	CXI.3303,3305,3307,3501	Amended	Feb. 232		
	I.763	Adopted	Jan. 102	CXV.507	Amended	Aug. 1416		
	I.765	Adopted	Apr. 637	CXV.1103	Amended	Apr. 545		
	I.767	Adopted	July 1249	CXV.1103	Amended	June 1029		
	I.769	Adopted	July 1248	CXV.2319,2377,2387	Amended	Aug. 1414		
	I.771	Adopted	Oct. 1906	CXV.2320	Adopted	Feb. 240		
	I.2301-2321	Amended	May 849	CXV.2377	Amended	Apr. 546		
	I.2327	Adopted	May 849	CXXV.101, 301-317	Adopted	May 797		
	III.4101-4105, 4501, 4511	Adopted	Jan. 78	CXXVII.Chapters 1-7	Adopted	July 1200		
	III.4107-4113	Repealed	Jan. 78	CXXIX.Chapters 1-11	Adopted	Nov. 2036		
	III.4503-4509	Amended	Jan. 78	CXXXI.Chapters 1-10	Adopted	Oct. 1782		
	III.4513-4543	Repealed	Jan. 78	CXXXI.231	Adopted	Oct. 1839		
	III.4715,4723	Amended	June 1043	CXXXI.241	Adopted	Oct. 1836		
	III.4743	Adopted	May 833	CXXXI.243	Adopted	Oct. 1833		
	III.5901-5905	Adopted	Jan. 78	32	III.Chapters 1-7	Amended	Oct. 1883	
	III.6101, 7101, 7102, 7103	Repromulgated	Jan. 78		III.301	Amended	Oct. 1898	
	III.Chapter 63	Adopted	Nov. 2044		III.309	Amended	Dec. 2253	
	XIII.503	Amended	Feb. 242		III.323	Amended	Dec. 2254	
	XV.Chapter 2	Adopted	May 836		V.Chapters 1-7	Amended	Oct. 1855	
	28	I.903	Amended		Apr. 547	V.301	Amended	Oct. 1898
		I.903	Amended		Apr. 548	V.309	Amended	Dec. 2253
		I.903	Amended		Apr. 549	V.325	Amended	Dec. 2254
		I.903	Amended		Apr. 552	VII.101,301-319	Amended	Jan. 118
IV.505,507,703,1301		Amended	Dec. 2238		VII.321	Adopted	Jan. 118	
V.109		Amended	Mar. 391		VII.Chapter 7 and 11	Amended	Jan. 118	
VI.107,305,309,311		Amended	Aug. 1433		VII.Chapter 101	Adopted	Jan. 118	
VI.107,305,311,315		Amended	Dec. 2240		IX.Chapters 1-6	Amended	Oct. 1869	
VI.315		Amended	Aug. 1434		IX.301	Amended	Oct. 1898	
VII.109		Amended	Mar. 392		IX.309	Amended	Dec. 2253	
IX.101,301,309,313,315,321		Repromulgated	Mar. 386	IX.323	Amended	Dec. 2254		
33		I.705,909	Amended		I.705,909	Amended	Oct. 1842	
		I.801,803,805,807	Adopted		I.801,803,805,807	Adopted	Dec. 2241	
		I.3931	Amended		I.3931	Amended	Apr. 603	
		I.3931	Amended		I.3931	Amended	Dec. 2247	

LAC Title	Part.Section	Effect	Location LR 32 Month Page	LAC Title	Part.Section	Effect	Location LR 32 Month Page	
33	III.111,507	Amended	May 808	46	I.1513	Amended		
	III.111,504,509,607,709,711	Amended	Sept. 1598		V.Chapter 47	Adopted	July 1221	
	III.501	Amended	Oct. 1841		XI.101	Amended	Feb. 242	
	III.505	Amended	Sept. 1597		XI.108	Adopted	Feb. 242	
	III.506	Adopted	Sept. 1597		XIX.505,1105,1301,1501,1700	Amended	Dec. 2248	
	III.509	Amended	Oct. 1842		XIX.1701,1703,1705,1707	Amended	Dec. 2248	
	III.513	Amended	Oct. 1854		XXVII.701,703	Amended	July 1223	
	III.531	Amended	Oct. 1841		XXVII.702	Repromulgated	July 1223	
	III.919	Amended	Feb. 241		XXVII.704,705	Adopted	July 1223	
	III.1432,2160,3003,5116,5122	Amended	May 808		XXXI.309,313	Amended	May 834	
	III.2301	Amended	Oct. 1840		XXXI.311,321	Amended	May 834	
	III.3003	Amended	Sept. 1595		XXXI.502	Adopted	May 834	
	III.5311,5901	Amended	May 808		XXXI.701,705,707,709,713	Amended	May 834	
	V.105,108,109,1501,1705,1717	Amended	Apr. 605		XXXI.1109,1111,1113	Amended	May 836	
	V.105,109	Amended	May 819		XXXIII.128	Adopted	July 1227	
	V.901,905,907,909,911,923,1119	Repealed	May 819		XXXIII.301,306,415,419,501	Amended	Feb. 243	
	V.1101,1107,1108,1109,1113	Amended	May 819		XXXIII.701,1507	Amended	Nov. 2056	
	V.1123,1301,1307,1309	Amended	May 819		XXXIII.1506,1509,1511,1611	Amended	Feb. 243	
	V.1516,2208,4356	Adopted	May 819		XXXIII.1613,1703,1705	Amended	Feb. 243	
	V.1529,2205,2299	Amended	May 819		XXXIX.301,501,503,901,903	Amended	June 1048	
	V.2247,3001,3873,4101	Amended	Apr. 605		XLIV.101,301,901,1101,1301	Amended	July 1230	
	V.2299, 3325	Amended	Oct. 1842		XLIV.1201,4101	Adopted	July 1230	
	V.3099	Amended	Apr. 603		XLIV.1501,1701,1901,2101	Amended	July 1230	
	V.3105,4145,4351-4355,4901	Amended	May 821		XLIV.2501,2701,2901,3101,3301	Amended	July 1230	
	V.4103,4107-4135	Repealed	Apr. 605		XLIV.3501,3701,3901,5101,5301	Amended	July 1230	
	V.4105,4139,4143,4145,4301	Amended	Apr. 605		XLIV.5501,5701,5901,6101	Amended	July 1230	
	V.4141	Adopted	Apr. 605		XLV.2131	Adopted	Nov. 2057	
	V.10303	Amended	Apr. 641		XLVII.501,1705	Amended	Apr. 636	
	VII.529	Amended	Dec. 2241		XLVII.3305,3339	Amended	Dec. 2255	
	IX.107	Amended	Oct. 1842		XLVII.3333, 4507	Amended	Feb. 246	
	IX.1123	Amended	May 815		XLVII.3529	Amended	July 1240	
	IX.1123	Amended	May 816		XLVII.3703	Amended	Feb. 245	
	IX.1123	Amended	May 817		XLVII.3705	Adopted	Feb. 245	
	IX.2501,2505,2703,4903	Amended	May 818		LI.Chapters1-8	Adopted	Apr. 629	
	IX.2511	Amended	Sept. 1603		LII.513	Repealed	Dec. 2256	
	IX.2701	Amended	July 1220		LII.705	Amended	Apr. 636	
	IX.2903,6105,6109,6111,6113	Amended	June 1032		LII.705	Amended	Dec. 2256	
	IX.6115,6123,6129,7127	Amended	June 1032		LII.907	Amended	June 1049	
	IX.7107	Amended	Oct. 1842		LVII.703	Amended	July 1247	
	XI.301	Amended	Oct. 1842		LXI.105,901,903,907,909	Amended	Sept. 1618	
	XL301,509,1313	Repromulgated	Mar. 393		LXI.1303,1315,1505,2505	Amended	Sept. 1618	
	XI.2301,4901,4903	Amended	Apr. 603		LXIII.403	Amended	July 1228	
	XV.102,339	Amended	Oct. 1842		LXIII.801-805,809-813	Amended	July 1228	
	XV.102,322,421,442,703,723	Amended	May 810		LXIII.808	Adopted	July 1228	
	XV.399	Amended	May 819		LXIII.903	Adopted	July 1227	
	XV.728,736,737,741,742,743	Amended	May 810		LXVII.301,303,501-507,701,705	Amended	Aug. 1445	
	XV.755,757,763,804	Amended	May 810		LXVII.305,2708	Adopted	Aug. 1445	
	XV.1517	Amended	Apr. 603		LXVII.509,511,703,903,905	Repealed	Aug. 1445	
	34	III.101,105,107,109,113	Amended		Nov. 2047	LXVII.901,907,1501-1507,1701	Amended	Aug. 1445
		III.701	Amended		Nov. 2048	LXVII.1101,1103,1301-1307	Repealed	Aug. 1445
		V.105	Amended		Nov. 2048	LXVII.1703,1901,1903,2101	Amended	Aug. 1445
35		I.1720	Amended	July 1221	LXVII.1705,1707,1905,2513	Repealed	Aug. 1445	
		37	I.101,301-313,501,701-705	Repealed	Aug. 1434	LXVII.2301,2501,2701-2707	Amended	Aug. 1445
			I.101,301,701-721,901,1101,2501	Amended	Aug. 1434	LXVII.2709-2721,2723-2733	Repealed	Aug. 1445
	XIII.525		Amended	Aug. 1462	LXVII.2901-2903,3101,3501	Amended	Aug. 1445	
	XIII.Chapter 95		Amended	Jan. 94	LXVII.3301,5513-5545	Repealed	Aug. 1445	
	XIII.Chapter 117		Adopted	Dec. 2268	LXVII.3703,3705,5301-5323	Amended	Aug. 1445	
40	III.101		Amended	Jan. 92	LXVII.5501-5511	Amended	Aug. 1445	
	42	I.2101-2111	Adopted	Feb. 255	LXX.9107,9111,9117	Amended	Aug. 1444	
		I.2301-2339	Amended	Feb. 251	LXXXV.309	Adopted	Oct. 1900	
		XI.2403,2411,2413	Amended	Jan. 108	XCI.103,301-321	Amended	Mar. 394	
		XI.2407,2430	Amended	Dec. 2492	XCI.323, 325	Repealed	Mar. 394	
		XI.2413	Amended	Sept. 1613	XCI.501-509, 701-707,711	Amended	Mar. 394	
43		I.850,852,854,856,858,875-895	Repealed	Nov. 2088	XCI.713, 801	Adopted	Mar. 394	
	I.851,853,855,857,859,861,863	Adopted	Nov. 2088	48	I.12501	Amended	May 845	
	I.865,867,869	Adopted	Nov. 2088		I.2901, 2903	Repromulgated	Mar. 403	
	V.Chapter 4	Adopted	Sept. 1608		I.51188	Adopted	Dec. 2258	
	XIX.701,703,707	Amended	Nov. 2087		I.63188	Adopted	Dec. 2259	
	XXVII.Chapter 32	Adopted	Apr. 612		I.7601-7613	Amended	Jan. 99	
			I.7927		Amended	Dec. 2260		
			I.9121	Amended	May 846			
			I.Chapter 92	Adopted	Nov. 2058			
			1.9717 and 9911	Amended	June 1067			
			1.9729	Amended	Dec. 2261			
			1.9820	Adopted	June 1067			

LAC Title	Part.Section	Effect	Location LR 32 Month Page	LAC Title	Part.Section	Effect	Location LR 32 Month Page			
48	I.Chapter 100	Adopted	Nov. 2074	61	I.1195	Adopted	May 864			
	V.6303	Amended	Feb. 248		I.1905	Amended	May 866			
	IX.701,703,707-721	Adopted	July 1240		I.2903	Amended	Sept. 1614			
	IX.705	Amended	July 1240		I.4301	Amended	Jan. 111			
50	I.Chapters 7,9,83	Adopted	May 846	I.4301	Amended	May 865				
	I.2901,2903,2907,2911	Amended	Mar. 404	I.4351	Amended	Jan. 111				
	I.2903	Amended	Oct. 1901	I.4371	Amended	Feb. 262				
	I.8311	Adopted	May 849	I.4373	Amended	Feb. 261				
	II.10143,10145	Repealed	Nov. 2082	I.4412	Repealed	Jan. 111				
	II.10146, 10157	Amended	Nov. 2084	I.5301	Amended	July 1250				
	II.10154	Adopted	Nov. 2083	III.2111	Adopted	Feb. 260				
	VII.1301-1305,1309,1311	Amended	Dec. 2262	V.101,103,203	Amended	Mar. 425				
	VII.1317	Adopted	Dec. 2262	V.205	Repealed	Mar. 425				
	XI.10101,10503,10701	Adopted	Oct. 1901	V.211,301,304,309,703	Amended	Mar. 425				
	XI.10301,10303,10501	Amended	Oct. 1901	V.705	Repealed	Mar. 425				
	XI.Chapters 161-167	Adopted	Oct. 1904	V.907,1103,1307,1501,1503,2503	Amended	Mar. 425				
	XI.Chapters 161-167	Repromulgated	Dec. 2266	V.3101,3103,3105,3307	Amended	Mar. 425				
	XIII.305	Adopted	Mar. 406	V.3501,3503,3507	Amended	Mar. 425				
	XV.Chapters 1,3,7	Amended	Nov. 2064	67	I.101-119	Amended	Jan. 114			
	XV.313,711	Repealed	Nov. 2064		III.1207,1227,1257	Amended	Feb. 263			
	XV.Chapter 5	Adopted	Nov. 2064		III.1209,1223,1225,1229	Amended	Oct. 1911			
	XV.7501	Repealed	Mar. 406		III.1229,1935,1979,1980	Amended	Sept. 1615			
	XV.10101,10501,10505,11701	Amended	Sept. 1607		III.1235,1949	Amended	Apr. 645			
	XV.12901,12905	Amended	Nov. 2082		III.1245,1291	Amended	Oct. 1911			
	XXI.2105,2107,2305,2309,2901	Amended	Dec. 2256		III.1937	Repealed	Sept. 1615			
	XXI.Chapters 53-61	Adopted	Sept. 1604		III.1999	Amended	Dec. 2270			
	XXI.Chapters 81,83,85	Amended	July 1245		III.Chapter 21	Adopted	Dec. 2270			
	XXI.8701,8901	Amended	July 1245		III.2518	Adopted	Mar. 442			
	XXI.13901,13915	Amended	Nov. 2063		III.2518	Amended	Aug. 1465			
	XXII.Chapters 21-27	Adopted	Aug. 1461		III.2901,2902,2905-2913	Repealed	Nov. 2096			
XXII.Chapters 41-53	Adopted	Oct. 1902	III.4501,4701,4702,4703,4704		Repealed	Oct. 1911				
XXIX.115	Amended	Nov. 2083	III.Chapter 51		Amended	Aug. 1464				
XXIX.Chapters 1-9	Adopted	June 1052	III.5107,5109,5729		Amended	Nov. 2096				
51	II.Chapter 1	Amended	June 1049		III.5305,5327,5347	Amended	Feb. 263			
	II.503	Amended	Jan. 98		III.5307,5321,5323,5329,5339	Amended	Oct. 1911			
55	I.503	Amended	Oct. 1906		III.5329	Amended	Sept. 1615			
	I.509	Amended	Jan. 109		III.5329	Repromulgated	Nov. 2098			
	I.515	Amended	Jan. 110		III.5341,5391	Repealed	Oct. 1911			
	I.Chapter 19	Adopted	May 853		III.5349	Adopted	Feb. 263			
	V.1301	Amended	Jan. 109		III.5509,5569,5587	Adopted	Nov. 2098			
	V.1501	Amended	Oct. 1906		III.5511,5583	Adopted	Oct. 1914			
	58	IV.101	Repealed		Aug. 1432	III.5539	Adopted	Feb. 264		
I.703, 1501		Amended	Feb. 265		III.5549,5555	Amended	Nov. 2098			
I.1301		Amended	Aug. 1466		III.5579	Repealed	Nov. 2098			
I.2511		Amended	Feb. 265	III.5583	Adopted	Sept. 1617				
I.2713, 2715, 4111		Amended	June 1070	III.5585	Repromulgated	Nov. 2100				
I.4135		Adopted	June 1070	III.5711	Amended	Oct. 1911				
I.4301		Adopted	Feb. 265	V.3503	Amended	Apr. 645				
III.401		Adopted	May 866	V.3507	Amended	Apr. 644				
III.510		Adopted	May 867	V.Chapter 57	Adopted	Jan. 112				
61		I.306	Amended	Mar. 415	70	III.136, 139	Repromulgated	Jan. 117		
		I.601	Adopted	Apr. 641		73	I.723	Amended	July 1251	
		I.601	Amended	Oct. 1907			76	I.307	Adopted	Apr. 646
		I.1114	Adopted	Feb. 261				V.115	Amended	Apr. 647
	I.1115	Repealed	Feb. 260	VII.341				Repromulgated	Jan. 125	
	I.1128	Repealed	Feb. 263	VII.341				Amended	June 1071	
	I.1130	Amended	Mar. 409	VII.367				Amended	Feb. 266	
	I.1134	Amended	Mar. 421	VII.369				Adopted	July 1255	
	I.1175	Adopted	Feb. 260	XIX.111				Amended	July 1251	
	I.1311	Adopted	Feb. 259	XIX.101,103				Amended	July 1253	
								XIX.113-117	Amended	Dec. 2272

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Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given June 11-12, 2007, beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows.

New Candidates: February 17, 2007
 Re-Take Candidates: March 9, 2007
 Reciprocity Candidates: April 27, 2007

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, P.O. Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to February 16, 2007. Questions may be directed to (225) 952-8100.

Bob Odom
 Commissioner

0701#027

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Department of Agriculture and Forestry Office of Forestry and Department of Revenue Tax Commission

Timber Stumpage Values Adoption

The Louisiana Forestry Commission and the Louisiana Tax Commission met jointly to adopt current average timber stumpage values for 2007 on December 11, 2006, which is the second Monday in December as required by the provisions of R.S. 47:633.

The valuations adopted by these Commissions shall take effect on January 1, 2007 and continue through December 31, 2007. The values that were adopted are:

Trees and Timber	Price/Scale	Price/Ton
Pine Sawtimber	\$336.64/MBF	\$42.08/Ton
Hardwood & Cypress Sawtimber	\$311.69/MBF	\$32.81/Ton
Pine Chip and Saw	\$104.94/CD	\$38.87/Ton
Pulpwood		
Pine Pulpwood	\$ 19.14/CD	\$ 7.09/Ton
Hardwood & Cypress Pulpwood	\$ 16.13/CD	\$ 5.66/Ton

Conversion Factors		
MBF Pine Doyle Scale	= 16,000	= 8.00 Tons
MBF Hardwood Doyle Scale	= 19,000	= 9.50 Tons
Cord Pine	= 5,400	= 2.70 Tons
Cord Hardwood	= 5,700	= 2.85 Tons
Chip-N-Saw	= 5,400	= 2.70 Tons

Bob Odom
 Commissioner

0701#044

POTPOURRI

Department of Agriculture and Forestry Office of Forestry and Department of Revenue Tax Commission

Timber Stumpage Values Proposal

The Louisiana Forestry Commission and the Louisiana Tax Commission will meet and jointly adopt current average timber stumpage values for 2007 on December 11, 2006, which is the second Monday in December as required by the provisions of R.S. 47:633. The meeting will begin at 10 a.m. and be held at the headquarters of the Louisiana Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, Louisiana.

The valuations adopted by these Commissions shall take effect on January 1, 2007 and continue through December 31, 2007.

The Louisiana Department of Agriculture and Forestry, Office of Forestry has compiled the following data and developed the following recommendations for the determination of the current average stumpage market value of trees and timber and of pulpwood for calendar year 2006.

Trees and Timber	Price/Scale	Price/Ton
Pine Sawtimber	\$336.64/MBF	\$42.08/Ton
Hardwood & Cypress Sawtimber	\$311.69/MBF	\$32.81/Ton
Pine Chip and Saw	\$104.94/CD	\$38.87/Ton
Pulpwood		
Pine Pulpwood	\$ 19.14/CD	\$ 7.09/Ton
Hardwood & Cypress Pulpwood	\$ 16.13/CD	\$ 5.66/Ton
Conversion Factors		
MBF Pine Doyle Scale	= 16,000	= 8.00 Tons
MBF Hardwood Doyle Scale	= 19,000	= 9.50 Tons
Cord Pine	= 5,400	= 2.70 Tons
Cord Hardwood	= 5,700	= 2.85 Tons
Chip-N-Saw	= 5,400	= 2.70 Tons

Bob Odom
 Commissioner

0701#043

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Office of the Governor Oil Spill Coordinator's Office

Louisiana Regional Restoration Planning Program
Final Programmatic Environmental Impact Statement

Action: Notice of Availability of a Final Programmatic Environmental Impact Statement.

Agencies: Louisiana Department of Environmental Quality; Louisiana Department of Natural Resources; Louisiana Department of Wildlife and Fisheries; Louisiana Oil Spill Coordinator's Office, Office of the Governor; National Oceanic and Atmospheric Administration; and U.S. Department of the Interior.

Summary: Notice is hereby given that a document entitled "The Louisiana Regional Restoration Planning Program Final Programmatic Environmental Impact Statement" is final and available to the public as of January 5, 2007. This document has been prepared by the agencies listed above (natural resource trustees) and is both a Final Programmatic Environmental Impact Statement (Final PEIS) and a description of the Louisiana Regional Restoration Planning Program (RRP Program). The Louisiana RRP Program is established in accordance with La. Rev. Stat. 30:2480.1 and is jointly administered and used by the trustees to assist in carrying out their Natural Resource Damage Assessment (NRDA) responsibilities for discharges or substantial threats of discharges of oil under the Oil Pollution Act of 1990 (OPA) (33 United States Code [U.S.C.] 2701 *et seq.*) and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA) (La. Rev. Stat. 30:2451 *et seq.*). The Final PEIS was developed pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C 4321 *et seq.*) and its implementing regulations (40 Code of Federal Regulations [C.F.R.] 1500). An Administrative Record for the RRP Program is available at: http://www.losco.state.la.us/admin/RRP/RRPprogram_view.asp

Interested members of the public are invited to request a copy of the January 2007 Final PEIS from Charles K. Armbruster at the address given below.

For Further Information: Contact Karolien Debusschere at (225) 219-5800 or by email at Karolien.Debusschere@la.gov, or Tony Penn at (301) 713-2990 ext. 197 or by email at Tony.Penn@noaa.gov. To view the January 2007 Final PEIS via the internet, please visit <http://www.losco.state.la.us> and look under News Flash for Final Programmatic Environmental Impact Statement for the Louisiana RRP Program.

Address: Requests for copies of the Final PEIS should be sent to:

Attn: Charles K. Armbruster
Louisiana Oil Spill Coordinator's Office
150 Third Street, Suite 405
Baton Rouge, LA 70801

Supplementary Information: Federal and Louisiana natural resource trustees have developed a statewide RRP Program to assist the natural resource trustees in carrying out their NRDA responsibilities for discharges or substantial threats of discharges of oil. The RRP Program is described in the Final PEIS and further defined in individual Regional

Restoration Plans (RRPs) that will be prepared for each of nine regions in the State of Louisiana (state). The goals of this statewide Program are to: 1) expedite and reduce the cost of the NRDA process; 2) provide for consistency and predictability by describing in detail the NRDA process, thereby increasing understanding of the process by the public and industry; and 3) increase restoration of lost trust resources and services. Attainment of these goals will serve to make the NRDA process as a whole more efficient in Louisiana.

OPA and OSPRA are the principal federal and state statutes, respectively, authorizing federal and state agencies and tribal officials to act as natural resource trustees for the recovery of damages for injuries to trust resources and services resulting from incidents in Louisiana. The RRP Program is established to address incidents under OPA and OSPRA. The RRP Program does not address injuries from releases of hazardous substances under the Comprehensive, Environmental Response Compensation, and Liability Act (CERCLA) (42 U.S.C 9601 *et seq.*), injuries to park system resources pursued by the National Park Service under the Park System Resources Protection Act (16 U.S.C 19[jj] *et seq.*), or physical injuries to resources under the National Marine Sanctuaries Act (16 U.S.C 1431 *et seq.*) should a sanctuary be designated in the state.

The development of the RRP Program has been a coordinated effort between state and federal natural resource agencies, local governments, and the public. Updates on the RRP Program, including the RRP, will be available at http://www.losco.state.la.us/ps_rrpprogram.htm and in the Administrative Record.

The public was given an opportunity to review and comment on the Draft PEIS during the public comment period, which extended from May 9, 2003 through July 9, 2003. Public review of the Draft PEIS is consistent with all state and federal laws and regulations that apply to the NRDA process, including Section 1006 of OPA, 33 U.S.C. § 2706; the regulations for NRDA under OPA, 15 C.F.R. Part 990; NEPA, 42 U.S.C. § 4321, *et seq.*; the regulations implementing NEPA, 40 C.F.R. §1500, *et seq.*; Section 2480 of OSPRA, La. Rev. Stat. 30:2480 *et seq.*; and the regulations for NRDA under OSPRA, La. Admin. Code 43: Part XXIX, Chapter 1. The natural resource trustees have addressed the comments received from the public and have finalized the document for implementation of the RRP Program.

Roland Guidry
Oil Spill Coordinator

0701#049

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Office of the Governor Oil Spill Coordinator's Office

Louisiana Regional Restoration Planning Program
Final Regional Restoration Plan for Region 2

Action: Notice of Availability of a Final Regional Restoration Plan for Region 2.

Agencies: Louisiana Department of Environmental Quality; Louisiana Department of Natural Resources;

Louisiana Department of Wildlife and Fisheries; Louisiana Oil Spill Coordinator's Office, Office of the Governor; National Oceanic and Atmospheric Administration; and U.S. Department of the Interior.

Summary: Notice is hereby given that a document entitled "The Louisiana Regional Restoration Planning Program Final Regional Restoration Plan Region 2" is final and available to the public as of January 5, 2007. This document has been prepared by the agencies listed above (natural resource trustees) and is a Final Regional Restoration Plan (Final RRP) for Region 2, the first of the nine regional plans being developed under the Louisiana Regional Restoration Planning Program (RRP Program). The Louisiana RRP Program is established in accordance with La. Rev. Stat. 30:2480.1 and is jointly administered and used by the trustees to assist in carrying out their Natural Resource Damage Assessment (NRDA) responsibilities for discharges or substantial threats of discharges of oil under the Oil Pollution Act of 1990 (OPA) (33 United States Code [U.S.C.] 2701 *et seq.*) and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPR) (La. Rev. Stat. 30:2451 *et seq.*). The Final RRP for Region 2 identifies the trust resources and services in the region that are likely to be or anticipated to be injured by an incident, appropriate restoration types for each of the "potentially injured trust resources and services", and "potentially available restoration projects" for each of the restoration types identified in the RRP. Under the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C 4321 *et seq.*) regulations (40 Code of Federal Regulations [C.F.R.] 1500.4(i) and (k) 40 CFR 1502.20), the trustees will tier by both reference and incorporation information relevant to an incident-specific Damage Assessment and Restoration Plan/Environmental Assessment (DARP/EA). Specifically, the analyses from the Louisiana RRP Program Final PEIS and the relevant information from the RRP's will be included in the DARP/EAs, as appropriate. An Administrative Record for the Final RRP for Region 2 is available at: http://www.losco.state.la.us/admin/RRP/RRPprogram_view.asp

Interested members of the public are invited to request a copy of the January 2007 Final RRP for Region 2 from Charles K. Armbruster at the address given below.

For Further Information: Contact Charles K. Armbruster at (225) 219-5800 or by email at Charles.Armbruster@la.gov, or Tony Penn at (301) 713-2990 ext. 197 or by email at Tony.Penn@noaa.gov. To view the January 2007 Final RRP for Region 2 via the internet, please visit <http://www.losco.state.la.us> and look under News Flash for Final Regional Restoration Plan for Region 2, for the Louisiana RRP Program.

Address: Requests for copies of the January 2007 Final RRP Region 2 should be sent to:

Attn: Charles K. Armbruster
Louisiana Oil Spill Coordinator's Office
150 Third Street, Suite 405
Baton Rouge, LA 70801

Supplementary Information: Region 2 encompasses the Breton Sound and Barataria hydrologic basins and the lower Mississippi River basin, delta plain, and modern Balize (Birdfoot) delta. Bordered to the north by the headwaters of Bayou Lafourche and the Mississippi River, Region 2 extends south to the Caminada-Moreau Headland,

Plaquemines barrier system, and Birdfoot delta, and from Bayou Lafourche along its western border to the Mississippi River and Mississippi River Gulf Outlet along its eastern border. The following parishes are located either partly or completely within Region 2: Ascension, Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, and St. John the Baptist.

The development of the RRP for Region 2 has been a coordinated effort between state and federal natural resource agencies, local governments, and the public. The RRP for Region 2 will be updated through periodic project solicitations. Public review and comment period on revisions to the RRP for Region 2 will be provided. Updates on the RRP Program, including the RRP's, will be available at http://www.losco.state.la.us/ps_rrpprogram.htm and in the Administrative Record.

The public was given an opportunity to review and comment on the Draft RRP Region 2 during the public comment period, which extended from September 17, 2003 through October 23, 2003. Public review of the Draft RRP Region 2 is consistent with all state and federal laws and regulations that apply to the NRDA process, including Section 1006 of OPA, 33 U.S.C. § 2706; the regulations for NRDA under OPA, 15 C.F.R. Part 990; NEPA, 42 U.S.C. § 4321, *et seq.*; the regulations implementing NEPA, 40 C.F.R. § 1500, *et seq.*; Section 2480 of OSPRA, La. Rev. Stat. 30:2480 *et seq.*; and the regulations for NRDA under OSPRA, La. Admin. Code 43: Part XXIX, Chapter 1. The natural resource trustees have addressed the comments received from the public and have finalized the document for implementation of the RRP Region 2.

Roland Guidry
Oil Spill Coordinator

0701#048

POTPOURRI

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

Fee Schedule

Following are the fees that are charged by the Louisiana Board of Veterinary Medicine.

Doctors of Veterinary Medicine:

Annual Active Renewal Fee	\$225
Annual Inactive Renewal Fee	\$100
Renewal Late Fee	\$125
Renewal Late CE Fee	\$ 25
DVM Original License Fee	\$225
Application Fee (Initial)	\$ 75
State Board Examination Fee	\$175
Duplicate Wall Certificate Fee	\$ 25

Registered Veterinary Technicians:

Annual Renewal Fee	\$ 30
Late Renewal Fee	\$ 20
Examination Fee (VTNE) (does not include exam vendor's cost)	\$ 40
Original Certification Fee	\$ 30
Initial Application Fee	\$ 25

Certified Animal Euthanasia Technicians:

Annual Renewal Fee	\$ 50
Late Renewal Fee	\$ 25
Course Fee	\$ 80
Examination Fee	\$ 50
Original Full Certification Fee	\$ 50
Temporary Certification Fee	\$ 50
Initial Application Fee	\$ 25

Registered Equine Dentists:

Original Registration Fee	\$200
Annual Renewal Fee	\$125
Late Renewal Fee	\$100
Initial Application Fee	\$100

Wendy D. Parrish
Administrative Director

0701#032

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
H. H. Sherman	Wildcat	M	Russell	1	9394
Fantome, LLC	Lafitte	L	4200 Sub;J S Rojas	3	81404
Fantome, LLC	Lafitte	L	J S Rojas Swd	2	92180
Fantome, LLC	Lafitte	L	4200 Sua;J S Rojas	1A	131864
Fantome, LLC	Lafitte	L	4200 Suc;E M Parria	1	149069
Dodge-Sundberry & Lotham	Chacahoula	L	Dodge-Sundberry & Lotham	1	990451
D G Hamilton	Nebo-Hemphill	M	WX E RB Su133; Lonnie Evans	1	129690 (30)
Hall Engineering Inc.	Caddo Pine Island	S	Gulf Refining Company A	3	61629
Hall Engineering Inc.	Caddo Pine Island	S	Gulf Refining Company A	4	62626
Hall Engineering Inc.	Caddo Pine Island	S	Rhoda Bradford	1	89992
Hall Engineering Inc.	Caddo Pine Island	S	Rhoda Bradford A	1	90492
Hall Engineering Inc.	Caddo Pine Island	S	Rhoda Bradford A	2	156761
Hall Engineering Inc.	Caddo Pine Island	S	Coil	1	157998

Operator	Field	District	Well Name	Well Number	Serial Number
Hall Engineering Inc.	Caddo Pine Island	S	Coil	2	157999
Hall Engineering Inc.	Caddo Pine Island	S	Rhoda Bradford	2	159592
Hall Engineering Inc.	Caddo Pine Island	S	Rhoda Bradford	3	159998
Hall Engineering Inc.	Caddo Pine Island	S	Rhoda Bradford	4	160282
Hall Engineering Inc.	Caddo Pine Island	S	Rhoda Bradford	5	160283
Hall Engineering Inc.	Caddo Pine Island	S	Hunter Co et al	1	161346
Hall Engineering Inc.	Caddo Pine Island	S	Hunter Co et al	3	161348
Hall Engineering Inc.	Caddo Pine Island	S	Blanchard	1	198566
Hall Engineering Inc.	Caddo Pine Island	S	Hale	1	203023
Coushatta Oil & Gas Inc.	North Elton	L	G W Jenkins et al Swd	1	23161
Coushatta Oil & Gas Inc.	North Elton	L	G W Jenkins et al	3	49042
Coushatta Oil & Gas Inc.	North Elton	L	G W Jenkins et al	3-D	62876
Coushatta Oil & Gas Inc.	North Elton	L	G W Jenkins et al	3-T	75543
John W. Mecom	Black Bayou	L	W E Lea	1	51272
John W. Mecom	Black Bayou	L	W E Lea	1-D	52537
Cajun Minerals, Inc.	North Bayou Fordoche	L	Roy O Martin Lumber Co 20-14	1	208267

James H. Welsh
Commissioner

0701#047

POTPOURRI

**Department of Natural Resources
Office of Conservation
Injection and Mining Division**

Hearing Notice—Statewide Order No. 29-B

Pursuant to the provisions of the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950 as amended, and the provisions of Statewide Order No. 29-B (LAC 43:XIX.Subpart 1.Chapter 5), notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6:00 P.M., Thursday, March 1, 2007, in the Jefferson Davis Parish Police Jury Meeting Room at the Sidney E. Briscoe Jr. Building, 304 N State Street, Jennings, Louisiana.

At such hearing, the commissioner, or his designated representative, will hear testimony relative to the application of MBO, Inc., 1431 Graham Drive Suite 215, Tomball, Texas 77375. The applicant requests approval from the Office of Conservation to reopen its closed exploration and

production waste (E&P Waste) land treatment facility as a major modification to its E&P Waste Type A commercial facility permit for the receipt, temporary storage, treatment and disposal of E&P Waste generated from the drilling and production of oil and gas wells utilizing land treatment technology and subsurface injection. MBO, Inc. intends to operate the facility under the trade name of Lacassine Oilfield Services. The permitted facility is located in Jefferson Davis Parish, Section 013, Township 09 South, Range 06 West, approximately 1.6 miles north of Interstate 10, west of Highway 101, approximately 2.5 miles northwest of Lacassine, Louisiana.

The application is available for inspection between 8:00 A.M. and 4:30 P.M., Monday through Friday in the Injection & Mining Division, Room 830 of the LaSalle Building, 617 North Third Street, Baton Rouge, LA. Copies of the application are also available for review at the Jefferson Davis Parish Police Jury Office in Jennings, LA, or the Jefferson Davis Parish Library, 301 South Sarah Street, Welsh, LA. Information concerning the application may be

obtained by contacting Mr. Gary Snellgrove at (225) 342-5515.

All interested persons will be afforded an opportunity to present testimony, facts, or oral or written comments, at said public hearing. Written comments which will not be presented at the hearing must be received by the Office of Conservation no later than 4:30 P.M., Thursday, March 8, 2007, at the Baton Rouge Office. Comments should be directed to:

Gary Snellgrove
Office of Conservation
Injection and Mining Division
P.O. Box 94275
Baton Rouge, LA 70804-9275
Re: Docket No. IMD 2007-02
Commercial Facility
Jefferson Davis Parish

James H. Welsh
Commissioner

0701#053

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